

Alison M. Bernal (Bar No. 264629)
alison@nshmlaw.com
NYE, STIRLING, HALE, MILLER &
SWEET, LLP
33 West Mission Street, Suite 201
Santa Barbara, CA 93101

Matthew D. Schelkopf (*pro hac vice*
forthcoming)
mds@sstriallawyers.com
Joseph B. Kenney (*pro hac vice* forthcoming)
jbk@sstriallawyers.com
Juliette T. Mogenson (*pro hac vice*
forthcoming)
jtm@sstriallawyers.com
SAUDER SCHELKOPF LLC
1109 Lancaster Avenue
Berwyn, PA 19312
Telephone: (610) 200-0581
Facsimile: (610) 421-1326

Attorneys for Plaintiffs and the Putative Class

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

CHRISTOPHER JARVIS,
CHRISTOPHER BAJWA, RONALD
BELANGER, and GRANT
ROCKWELL, on behalf of themselves
and all others similarly situated,

Plaintiffs,
v.

MAZDA MOTOR OF AMERICA, INC.,
and MAZDA MOTOR
CORPORATION.

Defendants.

Case No.: 3:24-cv-2159

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

///

///

1 Plaintiffs Christopher Jarvis, Christopher Bajwa, Ronald Belanger, and Grant
2 Rockwell, individually and on behalf of all others similarly situated, bring this action
3 against Mazda Motor of America and Mazda Motor Corporation (collectively “Mazda”
4 or “Defendants”). Plaintiffs allege the following based on (a) personal knowledge, (b)
5 the investigation of counsel, and (c) information and belief:

6 **INTRODUCTION**

7 1. This is a class action lawsuit brought by Plaintiffs on behalf of themselves
8 and a nationwide class of current and former owners and lessees of Mazda model years
9 (“MY”) 2019-2020 CX-5, MY 2016-2020 CX-9 and MY 2018-2020 Mazda6 vehicles
10 containing SKYACTIV-G 2.5T engines (collectively, the “Class Vehicles”).¹

11 2. This action arises from Defendants’ failure to disclose to Plaintiffs and
12 similarly situated consumers, despite their longstanding knowledge, that the engines in
13 the Class Vehicles contain, *inter alia*, a latent manufacturing and/ design defect that
14 results in significant structural weakness at the cylinder head around the exhaust
15 manifold, causing engine coolant leakage which results in the engine overheating and
16 catastrophic engine failure (the “Engine Coolant Defect” or “Defect”). The Defect may
17 also cause the engines in the Class Vehicles to experience sudden and unexpected
18 vehicle stalling during operation.

19 3. The sudden and unexpected catastrophic engine stalling and/or failure
20 causes the Class Vehicles to unexpectedly stop, posing a danger to the drivers and
21 occupants of the Class Vehicles, and others who share the road with them, as other
22 vehicles can collide with the Class Vehicles after they suddenly stop moving.

23 4. Not only did Defendants actively conceal the fact that the Class Vehicles
24 were prone to the Defect, which require costly repairs to fix, but they also did not reveal
25 that the existence of this Defect would diminish the intrinsic and resale value of the
26

27
28 ¹ Plaintiffs reserve the right to amend or add to the vehicle models and model years included in the
definition of Class Vehicles after conducting discovery.

1 Class Vehicles.

2 5. Defendants have long been aware of the Defect. Despite their longstanding
3 knowledge, Defendants have been unable or unwilling to adequately repair the Class
4 Vehicles for free when the Defect manifests.

5 6. Many owners and lessees of the Class Vehicles have communicated with
6 Defendants and their agents to request that they remedy and/or address the Defect at
7 Defendants' expense. Defendants have failed and/or refused to do so, often conveying
8 to owners and lessees that the Class Vehicles are operating as intended and therefore
9 cannot be repaired under warranty or otherwise. Once the Class Vehicles fall outside
10 the warranty period, Defendants then charge the owners and lessees for the costly repairs
11 necessitated by the Defect.

12 7. Defendants have also refused to take any action to correct this concealed
13 Defect when it manifests in the Class Vehicles outside of the warranty period. Because
14 the Defect can manifest shortly outside of the warranty period for the Class Vehicles—
15 and given Defendants' knowledge of this concealed, safety-related defect—Defendants'
16 attempt to limit the warranty with respect to the engine defect is unconscionable and
17 unenforceable here.

18 8. As a result of Defendants' unfair, deceptive, and/or fraudulent business
19 practices, owners and lessees of the Class Vehicles, including Plaintiffs, have suffered
20 an ascertainable loss of money and/or property and/or loss in value. The unfair and
21 deceptive trade practices committed by Defendants were conducted in a manner giving
22 rise to substantial aggravating circumstances.

23 9. Despite notice and knowledge of the Defect from the numerous complaints
24 they have received, information received from dealers, National Highway Traffic Safety
25 Administration ("NHTSA") complaints, and their own internal records, including pre-
26 sale durability testing, Defendants have not recalled the Class Vehicles, offered an
27 adequate repair to the Class Vehicles, offered their customers suitable repairs or
28 replacements free of charge, or offered to reimburse their customers who have incurred

1 out-of-pocket expenses to repair the Defect.

2 10. Had Plaintiffs and other Class Members known of the Defect at the time of
3 purchase or lease, they would not have bought or leased their Class Vehicles, or would
4 have paid substantially less for them.

5 11. Plaintiffs are also informed and believe, and on that basis allege, that as the
6 number of complaints increased, and Class members grew dissatisfied with the
7 performance of the Class Vehicles, Defendants were forced to acknowledge that the
8 Class Vehicles suffer from an inherent defect.

9 12. As a direct result of Mazda's wrongful conduct, Plaintiffs and members of
10 the Classes have been harmed and are entitled to actual damages, including damages for
11 the benefit of the bargain they struck when purchasing their vehicles, the diminished
12 value of their vehicles, out-of-pocket costs, statutory damages, attorneys' fees, costs,
13 restitution, and injunctive and declaratory relief.

14 13. As a result of the Defect and the monetary costs associated with attempting
15 to repair the Defect, Plaintiff and the Class have suffered injury in fact, incurred
16 damages, and have otherwise been harmed by Defendants' conduct.

17 14. This case seeks protection and relief for owners and lessees of the Class
18 Vehicles for the harm they have suffered, and the safety risks they face, from
19 Defendants' breaches of express and implied warranties, Defendants' unfair, unlawful,
20 and deceptive trade practices, and for Defendants' common law fraud and unjust
21 enrichment.

22 **JURISDICTION AND VENUE**

23 15. This Court has subject matter jurisdiction under the Class Action Fairness
24 Act of 2005 ("CAFA"), 28 U.S.C. §§ 1332(d)(2) and (6) because: (i) there are one
25 hundred or more class members, (ii) there is an aggregate amount in controversy
26 exceeding \$5,000,000 exclusive of interest and costs, and (iii) there is minimal diversity
27 because at least one plaintiff and one defendant are citizens of different states. This
28

1 Court also has supplemental jurisdiction over the state law claims under 28 U.S.C.
2 § 1367.

3 16. This Court has personal jurisdiction over Defendants by virtue of their
4 transactions and business conducted in this judicial district, and because Defendant
5 Mazda Motor of America, Inc. is headquartered in California. Defendants have
6 transacted and done business, and violated statutory and common law, throughout the
7 State of California and in this judicial district.

8 17. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391
9 because Mazda Motor America, Inc. maintains its corporate headquarters in this district,
10 Defendants transact business in this district, are subject to personal jurisdiction in this
11 district, and therefore are deemed to be citizens of this district. Additionally, there are
12 one or more authorized Mazda dealers within this district, and Defendants have
13 advertised in this district and have received substantial revenue and profits from their
14 sales and/or leasing of Class Vehicles in this district; therefore, a substantial part of the
15 events and/or omissions giving rise to the claims occurred within this district.

16 **PARTIES**

17 **A. Plaintiffs**

18 **Plaintiff Christopher Jarvis**

19 18. Plaintiff Christopher Jarvis is a citizen of New Jersey, and currently resides
20 in Ridgefield Park, New Jersey, and has at all times pertinent to this Complaint.

21 19. Plaintiff Jarvis leased a 2018 Mazda CX-9 containing a SKYACTIV-G
22 2.5T engine in October 2018 from Mazda of Lodi, an authorized Mazda dealership
23 located in Lodi, New Jersey. In September 2021, when his lease expired, Plaintiff Jarvis
24 purchased his Class Vehicle.

25 20. Plaintiff Jarvis purchased (and still owns) this vehicle, which is used for
26 personal, and/or household use. His vehicle bears Vehicle Identification Number:
27 JM3TCBCY1J0236568.

28 ///

1 21. Prior to purchase, Plaintiff Jarvis saw a Mazda advertisement discussing
 2 the safety and reliability of Mazda vehicles. Plaintiff Jarvis also reviewed the original
 3 window sticker provided for the vehicle when it was brand new, which was provided by
 4 Mazda of Lodi. Plaintiff Jarvis also test drove the vehicle and discussed the features of
 5 the vehicle with Mazda's sales representatives at Mazda of Lodi. None of these sources
 6 disclosed the Defect to Plaintiff Jarvis. Had Mazda disclosed the defect through these
 7 sources, Plaintiff Jarvis would have seen it and either not purchased the Class Vehicle,
 8 or would have paid substantially less for it.

9 22. Plaintiff Jarvis routinely checks the fluids in his vehicle.

10 23. In January 2024, when Plaintiff Jarvis's vehicle had approximately 50,000
 11 miles on the odometer, his vehicle began to overheat and the check engine light turned
 12 on. Plaintiff Jarvis brought his vehicle to a local mechanic where they researched the
 13 potential issues with Plaintiff Jarvis's vehicle and discovered Mazda's Technical
 14 Service Bulletin related to the engine coolant leak.

15 24. On or around January 20, 2024, Plaintiff Jarvis brought his vehicle to
 16 Mazda of Lodi. Mazda of Lodi diagnosed an engine coolant leak and cracked engine
 17 block. Mazda of Lodi recommended a full engine replacement.

18 25. Plaintiff Jarvis needed a safe and working vehicle so he paid for the
 19 necessary repairs in the amount of \$1,000. Plaintiff Jarvis also paid for a rental vehicle
 20 for while Mazda of Lodi worked on his vehicle in the amount of \$263.47.

21 26. Plaintiff Jarvis contacted Mazda's Customer Experience Center to request
 22 a reimbursement, but Plaintiff has not received reimbursement.

23 27. Plaintiff Jarvis has suffered an ascertainable loss as a result of Defendants'
 24 omissions and/or misrepresentations associated with the Engine Coolant Defect,
 25 including, but not limited to, out-of-pocket losses associated with the Engine Coolant
 26 Defect, diminished value of his vehicle, and other consequential damages.

27 ///

28 ///

1 28. Neither Defendant, nor any of its agents, dealers, or other representatives
2 informed Plaintiff Jarvis of the existence of the Defect prior to, or any time after, his
3 purchase.

4 **Plaintiff Christopher Bajwa**

5 29. Plaintiff Christopher Bajwa is a citizen of Maryland, and currently resides
6 in Bethesda, Maryland, and has at all times pertinent to this Complaint.

7 30. Plaintiff Bajwa purchased a 2016 Mazda CX-9 containing a SKYACTIV-
8 G 2.5T engine in January 2021 from Hertiage Mazda, an authorized Mazda dealership
9 located in Townson, Maryland.

10 31. Plaintiff Bajwa purchased (and still owns) this vehicle, which is used for
11 personal, and/or household use. His vehicle bears Vehicle Identification Number:
12 JM3TCBCY8G0122656.

13 32. Prior to purchase, Plaintiff Bajwa reviewed the window sticker, reviewed
14 the CarFax history report which was provided by Heritage Mazda, reviewed the prior
15 service records for the vehicle which were provided by Heritage Mazda, discussed the
16 features of the vehicle and the vehicle history with Mazda's sales representatives at
17 Heritage Mazda, and also reviewed the original window sticker provided for the vehicle
18 when it was brand new which was also provided by Heritage Mazda. These sources did
19 not disclose the Defect to Plaintiff Bajwa. Had Mazda disclosed the defect through these
20 sources, Plaintiff Bajwa would have seen it and either not purchased the Class Vehicle,
21 or would have paid substantially less for it.

22 33. Plaintiff Bajwa routinely checks the fluids in his vehicle.

23 34. In November 2022, when Plaintiff Bajwa's vehicle had approximately
24 78,000 miles on the odometer, a strong coolant smell emanated from the engine
25 compartment.

26 35. On or around November 8, 2022, Plaintiff Bajwa brought his vehicle to
27 Ourisman Mazda Rockville ("Ourisman"). Ourisman diagnosed an engine coolant leak
28 and recommended an engine head replacement. Ourisman informed Plaintiff Bajwa that

1 he would be required to pay for the engine replacement himself because the repairs
 2 would not be covered under the Class Vehicle's warranty.

3 36. Plaintiff purchased a third-party extended warranty through CarShield, and
 4 first tried to get the issue remedied through CarShield. CarShield ultimately denied the
 5 claim because they determined the issue was due to a manufacturer defect.

6 37. Ourisman then contacted Mazda's corporate customer service on behalf of
 7 Plaintiff Bajwa and requested that Mazda cover the repairs under warranty. After
 8 prolonged negotiations, Mazda corporate agreed to cover a portion of the total repair
 9 cost, but Plaintiff Bajwa was still required to pay approximately \$2,800.00.

10 38. Plaintiff Bajwa needed a safe and working vehicle so he paid for the
 11 necessary repairs in the amount of \$2,800. Plaintiff Bajwa also sent a communication
 12 to Mazda's corporate customer service expressing his belief that the dangerous, safety-
 13 related defect should be covered under warranty for all owners and lessees of the Class
 14 Vehicles.

15 39. Plaintiff Bajwa has suffered an ascertainable loss as a result of Defendants'
 16 omissions and/or misrepresentations associated with the Engine Coolant Defect,
 17 including, but not limited to, out-of-pocket losses associated with the Engine Coolant
 18 Defect, diminished value of his vehicle, and other consequential damages.

19 40. Neither Defendant, nor any of its agents, dealers, or other representatives
 20 informed Plaintiff of the existence of the Defect prior to, or any time after, his purchase.

21 **Plaintiff Ronald Belanger**

22 41. Plaintiff Ronald Belanger is a citizen of Connecticut, and currently resides
 23 in Bolton, Connecticut, and has at all times pertinent to this Complaint.

24 42. Plaintiff Belanger purchased a certified pre-owned 2018 Mazda CX-9
 25 containing a SKYACTIV-G 2.5T engine in March 2021 from Manchester Mazda, an
 26 authorized Mazda dealership located in Manchester, Connecticut.

27 ///

28 ///

1 43. Plaintiff Belanger purchased (and still owns) this vehicle, which is used for
2 personal, and/or household use. His vehicle bears Vehicle Identification Number:
3 JM3TCBCY7J0226319.

4 44. Prior to purchase, Plaintiff Belanger discussed the features of the vehicle
5 with Mazda's sales representatives at Manchester Mazda. Plaintiff Belanger also
6 reviewed an online advertisement on Manchester Mazda's website. Plaintiff Belanger
7 also reviewed the vehicle's window sticker. None of these sources disclosed the Defect
8 to Plaintiff Belanger. Had Mazda disclosed the defect through these sources, Plaintiff
9 Belanger would have seen it and either not purchased the Class Vehicle, or would have
10 paid substantially less for it.

11 45. Plaintiff Belanger routinely checks the fluids in his vehicle.

12 46. In September 2023, when Plaintiff Belanger's vehicle had approximately
13 71,638 miles on the odometer, his vehicle began to overheat and the check engine light
14 turned on.

15 47. In September 2023, Plaintiff Belanger brought his vehicle to Bolton
16 Motors, a local mechanic located in Bolton, Connecticut. Bolton Motors diagnosed a
17 crack in the exhaust manifold. Plaintiff Belanger then called Mazda to report the issue
18 and request that Mazda cover the cost of repair. Mazda informed Plaintiff Belanger that
19 the necessary repairs would not be covered under warranty.

20 48. Plaintiff Belanger needed a safe and working vehicle so he paid for the
21 necessary repairs in the amount of \$6,504.05.

22 49. Plaintiff Belanger contacted Mazda's Customer Experience Center to
23 request a reimbursement, but Plaintiff Belanger has not received reimbursement.

24 50. Plaintiff Belanger has suffered an ascertainable loss as a result of
25 Defendants' omissions and/or misrepresentations associated with the Engine Coolant
26 Defect, including, but not limited to, out-of-pocket losses associated with the Engine
27 Coolant Defect, diminished value of his vehicle, and other consequential damages.

28 ///

1 51. Neither Defendant, nor any of its agents, dealers, or other representatives
2 informed Plaintiff Belanger of the existence of the Defect prior to, or any time after, his
3 purchase.

4 **Plaintiff Grant Rockwell**

5 52. Plaintiff Grant Rockwell is a citizen of California, and currently resides in
6 Davis, California, and has at all times pertinent to this Complaint.

7 53. Plaintiff Rockwell purchased a 2016 Mazda CX-9 containing a
8 SKYACTIV-G 2.5T engine in March 2022 from South Coast Mitsubishi, located in
9 Costa Mesa, California.

10 54. Plaintiff Rockwell purchased (and still owns) this vehicle, which is used
11 for personal, and/or household use. His vehicle bears Vehicle Identification Number:
12 JM3TCBEY5G0104886.

13 55. Prior to purchase, Plaintiff Rockwell extensively researched Mazda
14 vehicles. Plaintiff Rockwell viewed the grand opening of the Mazda CX-9 at a car show.
15 In 2016, Plaintiff Rockwell test drove a 2016 CX-9 at Concord Mazda, an authorized
16 Mazda dealership located in Concord, California. Plaintiff Rockwell also spoke with a
17 sales manager at Concord Mazda about the features of the 2016 CX-9. Additionally,
18 Plaintiff Rockwell test drove a 2016 CX-9 at Maita Mazda, an authorized Mazda
19 dealership, located in Sacramento, California. Plaintiff Rockwell further test drove
20 Mazda vehicles at Carmax. Plaintiff Rockwell also discussed the features of the vehicle
21 with sales representatives authorized to sell Mazda vehicles at South Coast Mitsubishi.
22 None of these sources disclosed the Defect to Plaintiff Rockwell. Had Mazda disclosed
23 the defect through these sources, Plaintiff Rockwell would have seen it and either not
24 purchased the Class Vehicle, or would have paid substantially less for it. Had Mazda
25 disclosed the defect through these sources, Plaintiff Rockwell would have seen it and
26 either not purchased the Class Vehicle, or would have paid substantially less for it.

27 56. Plaintiff Rockwell routinely checks the fluids in his vehicle.

28 ///

1 57. In September 2023, when Plaintiff Rockwell's vehicle had approximately
2 70,000 miles on the odometer, his vehicle began to leak coolant. Plaintiff Rockwell
3 brought his vehicle to a local mechanic. The local mechanic was unable to pinpoint the
4 exact location of the leak.

5 58. In September 2023, Plaintiff Rockwell brought his vehicle to Maita Mazda.
6 Maita Mazda diagnosed a cracked engine block and recommended engine replacement.
7 Mazda informed Plaintiff Rockwell that the necessary repairs would not be covered
8 under warranty. Based on an unpleasant experience with Maita Mazda, Plaintiff
9 Rockwell did not trust it to perform the necessary repairs.

10 59. Plaintiff Rockwell brought his vehicle and diagnosis report from Maita
11 Mazda to a local mechanic named Made in America/Made in Japan, located in
12 Sacramento, California. Plaintiff Rockwell needed a safe and working vehicle so he paid
13 for the necessary repairs in the amount of \$13,000.

14 60. Plaintiff Rockwell contacted Mazda's Customer Experience Center to
15 request a reimbursement, but Plaintiff Rockwell has not received reimbursement.

16 61. Plaintiff Rockwell has suffered an ascertainable loss as a result of
17 Defendants' omissions and/or misrepresentations associated with the Engine Coolant
18 Defect, including, but not limited to, out-of-pocket losses associated with the Engine
19 Coolant Defect, diminished value of his vehicle, and other consequential damages.

20 62. Neither Defendant, nor any of its agents, dealers, or other representatives
21 informed Plaintiff Rockwell of the existence of the Defect prior to, or any time after, his
22 purchase.

23 **B. Defendants**

24 63. Defendants are automobile design, manufacturing, distribution, and/or
25 service corporations doing business within the United States. Furthermore, Defendants
26 design, develop, manufacture, distribute, market, sell, lease, warrant, service, and repair
27
28

1 passenger vehicles, including the Class Vehicles.

2 64. Defendant Mazda Motor of America, Inc. (“MMA”) is a California
3 corporation with its principal place of business at 200 Spectrum Center Drive, Irvine,
4 California 92618.

5 65. Defendant Mazda Motor Company (“MMC”) is a Japanese multinational
6 company that produces automobiles and engines. In 2015, MMC was ranked the 15th
7 largest automaker by production volume. MMC, through its various entities, designs,
8 manufactures, markets, distributes, and sells Mazda automobiles in California,
9 Connecticut, Maryland, New Jersey, and multiple other locations in the United States.

10 66. Defendant MMA is incorporated and headquartered in the State of
11 California with its principal place of business at 200 Spectrum Center Drive, Irvine,
12 California 92618. MMA is MMC’s U.S. sales and marketing division, which oversees
13 sales and other operations across the United States. MMA distributes Mazda vehicles
14 and sells these vehicles through its network of dealerships that are the agents of MMA
15 and MMC. Money received from the purchase of a Mazda vehicle from a dealership
16 flows from the dealer to MMA.

17 67. There exists, and at all times herein existed, a unity of ownership among
18 MMA and MMC and its agents such that any individuality or separateness between
19 them has ceased and each of them is the alter ego of the others.

20 68. Upon information and belief, Defendant MMC communicates with
21 Defendant MMA concerning virtually all aspects of the Mazda products it distributes
22 within the United States.

23 69. Upon information and belief, Defendants developed the window
24 (Monroney) stickers, post-purchase owner’s manuals, warranty booklets, and
25 information included in maintenance recommendations and/or schedules for the Class
26 Vehicles.

27 70. MMA and MMC are collectively referred to in this Complaint as “Mazda”
28 or “Defendants” unless identified separately.

1 71. Mazda engages in continuous and substantial business in California,
2 Connecticut, Maryland, and New Jersey.

3 **CALIFORNIA LAW APPLIES TO THE NATIONWIDE CLASS**

4 72. It is appropriate to apply California law to the nationwide claims because
5 California's interest in this litigation exceeds that of any other state.

6 73. Defendant MMA is located in Irvine, California, and is the sole entity in
7 the United States responsible for distributing, selling, leasing, and warranting Mazda
8 vehicles.

9 74. MMA maintains its customer relations, engineering, marketing, and
10 warranty departments at their corporate headquarters in this district. MMA's customer
11 service complaint address is Mazda North America Operations, P.O. Box 19734, Irvine,
12 CA 92623-9734. MMA's customer relations department is responsible for fielding
13 customer complaints and monitoring customer complaints posted to their respective
14 websites or third-party websites.

15 75. MMA's warranty and engineering departments are responsible for the
16 decisions to conceal the Defect from its customers, and for neglecting to inform
17 consumers of the Defect.

18 76. Based on the foregoing, such policies, practices, acts, and omissions giving
19 rise to this were developed in, and emanated from, Mazda's headquarters in Irvine,
20 California. As detailed below, MMA came to know, or should have come to know, of
21 the Defect through the activities of their divisions and affiliated entities located within
22 California. Accordingly, the State of California has the most significant relationship to
23 this litigation and its law should govern.

24 **TOLLING OF STATUTES OF LIMITATIONS**

25 77. Any applicable statute(s) of limitations have been tolled by Defendants'
26 knowing and active concealment and denial of the facts alleged herein. Plaintiffs and
27 the members of the Class could not have reasonably discovered the true, latent nature
28 of the Engine Coolant Defect until shortly before this class action litigation was

1 commenced.

2 78. In addition, even after Plaintiffs and Class Members contacted Defendants
3 and/or their authorized dealers for vehicle repairs concerning the Engine Coolant
4 Defect, they were routinely told by Defendants and/or through their dealers that the
5 Class Vehicles were not defective. As described below, the true cause of the Defect is a
6 manufacturing and/or design defect which can, over time, lead to premature and
7 catastrophic engine failure in the Class Vehicles.

8 79. Defendants were and remain under a continuing duty to disclose to
9 Plaintiffs and the Members of the Class the true character, quality, and nature of the
10 Class Vehicles, that the manufacturing defect will result in the Engine Coolant Defect
11 and eventually catastrophic engine failure, that they will require costly repairs, pose
12 safety concerns, and diminish the resale value of the Class Vehicles. As a result of the
13 active concealment by Defendants, any and all applicable statutes of limitations
14 otherwise applicable to the allegations herein have been tolled.

15 **FACTUAL ALLEGATIONS**

16 **A. Defendants' Marketing of the Class Vehicles**

17 80. Mazda designs, engineers, manufactures and sells vehicles throughout the
18 United States through its network of authorized motor vehicle dealers.

19 81. In 2022, Mazda was ranked 15th in total vehicle sales in the United States,²
20 with average annual sales for all vehicles, including the Class Vehicles, of over 294,908
21 in the U.S. in 2022³ and over 1,000,000 globally.⁴ Sales of the CX-5 topped 146,000 in
22 2020, sales of the CX-9 exceeded 27,000 that year, and Mazda6 sales were in excess of
23
24
25

26 ² <https://www.carpro.com/blog/full-year-2022-national-auto-sales-by-brand> (last visited April 10,
27 2024).

28 ³ *Id.*

⁴ <https://newsroom.mazda.com/en/publicity/release/2023/202301/230130a.html> (last visited April 10,
2024).

16,000.⁵ In January 2023, the CX-9 had the best-ever January sales with 3,170 vehicles sold.⁶

82. Mazda primarily competes for car sales in the United States with other large automakers such as Honda, Nissan, Kia, and Mini.⁷

83. Overall, Mazda touts its design philosophy, which is “to inspire, excite and most of all – bring people joy. This philosophy guides everything we do. From technology, to design, to safety. Our cars are built by insightful craftsmen and detail-obsessed engineers who want to elevate your state of being every time you get behind the wheel.”⁸

B. Engine Coolant Defect in the Class Vehicles

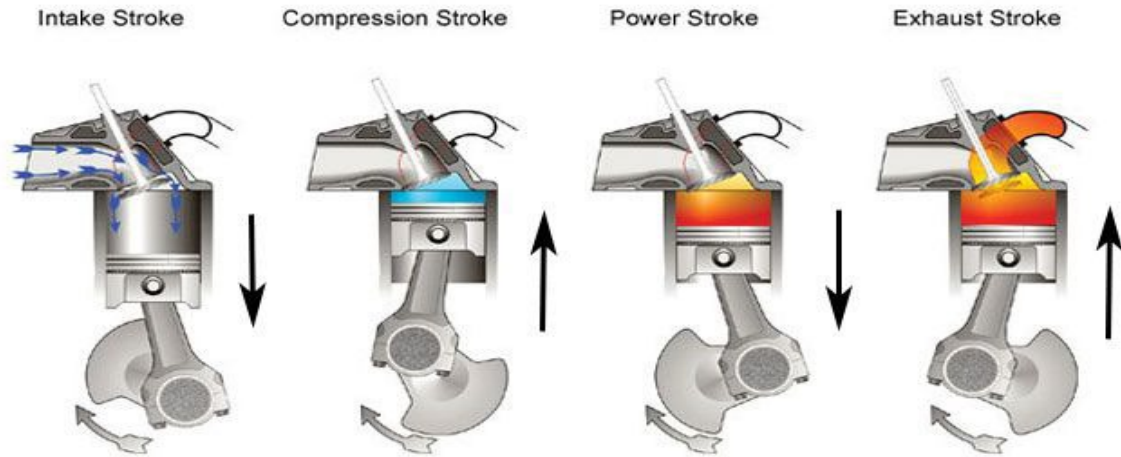
84. Mazda engines installed in the Class Vehicles use four reciprocating pistons to convert the pressure created by the combustion of gasoline mixed with air into a rotating motion. Gasoline, and only gasoline as a fuel, is mixed with air in the combustion chamber of the engine. To generate such rotating motion, a four-step sequence (the “Combustion Cycle”) is used. First, the intake stroke begins with the inlet valve opening and an atomized fuel mixture is pulled into the combustion chamber. Second, the compression stroke begins with the inlet valve closing and the piston beginning its movement upward, compressing the air in the combustion chamber. Third, the power stroke begins when the spark plug ignites the fuel/air mixture, expanding the gases and generating power that is transmitted to the crankshaft. Fourth, the exhaust stroke begins with the exhaust valve opening and the piston moving up, pushing the exhaust gases out of the cylinder. The exhaust valve then closes, the inlet valve opens, and the Combustion Cycle repeats itself. A diagram of the Combustion Cycle is below:

⁵ <https://news.mazdausa.com/2021-01-05-Mazda-Reports-December-and-Full-Year-2020-Sales-Results> (last visited April 10, 2024).

⁶ <https://news.mazdausa.com/2023-02-01-Mazda-Reports-January-Sales-Results> (last visited April 10, 2024).

⁷ <https://cars.usnews.com/cars-trucks/mazda> (last visited April 10, 2024).

⁸ <https://www.mazdausa.com/why-mazda/mazda-spirit> (last visited April 10, 2024).



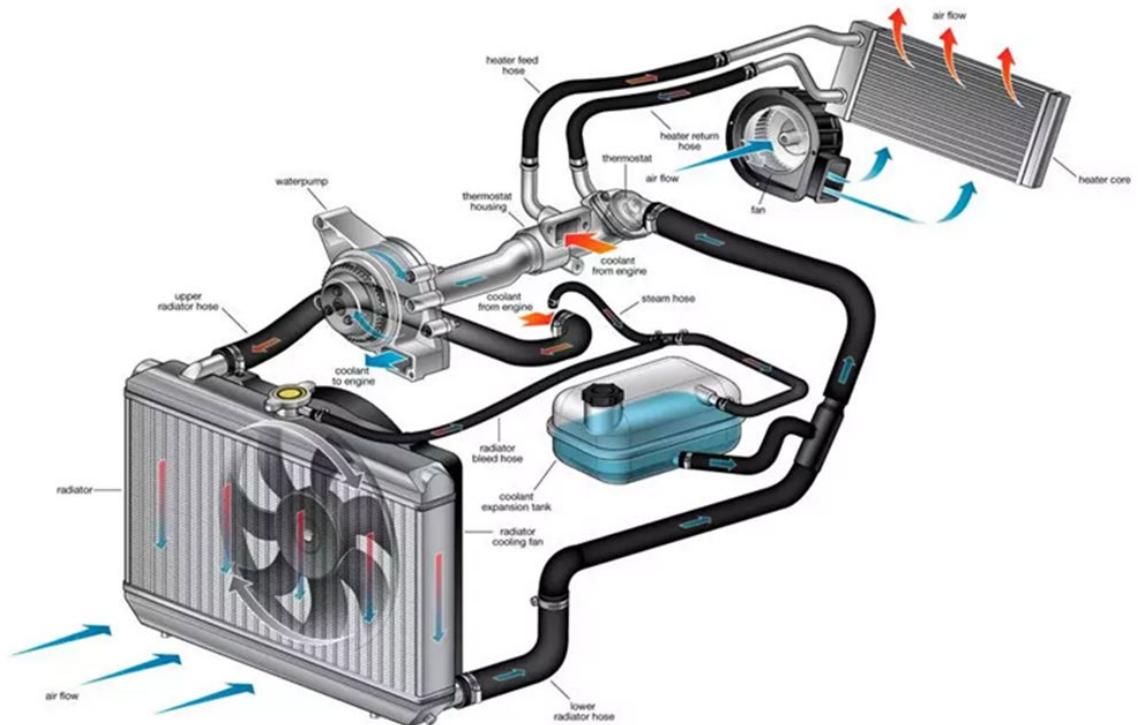
85. During this process, engine oil is used to lubricate the piston, piston rings, and the cylinder wall as the piston moves up and down. Engine oil reduces wear on moving parts throughout the engine, improves sealing, and cools the engine by carrying heat away from the moving parts.

86. The Combustion Cycle creates significant heat within the engine, engine surfaces, and components. The Class Vehicles, like most modern automobiles with combustion engines, utilize a liquid engine cooling system to dissipate heat generated by the engine while the Class Vehicles are in operation. Without a properly functioning engine cooling system, the engines in the Class Vehicles will overheat, which will eventually result in catastrophic engine failure, which poses a substantial safety threat to Class Vehicle owners and their families.

87. The engine cooling system in the Class Vehicles also incorporates a thermostat module. The thermostat monitors the operating temperature of the engine by measuring the temperature of the engine coolant. When the thermostat reads an optimal operating temperature within the engine, it opens and allows engine coolant to flow between the radiator and the engine in order to maintain the optimal operating

temperature range. Conversely, when the engine is running below optimal temperatures, such as on cold days, the thermostat closes and blocks engine coolant from passing between the radiator and engine in order to allow the engine to build heat and reach optimal operating temperature.

88. As the engine starts and begins to run, the engine will generate heat through both the combustion cycle and through the friction of moving mechanical parts. As the heat builds in the engine, the thermostat within the cooling system then begins to open. Once the thermostat has opened, the water pump starts by taking coolant from the radiator and moving it through the engine block and associated components. As the coolant flows through the engine coolant passages, it absorbs heat from the engine, thereby allowing the engine to operate at its optimal temperature and avoid overheating. The engine coolant then returns back to the radiator, where it is cooled and then can be cycled through the Class Vehicle's engine again. A diagram depicting generally how a cooling system functions is included below as background:



1 89. In the Class Vehicles, the engine cylinder head is an integral part of the
2 engine structure and Combustion Cycle. One function of the cylinder head is to close
3 the top of the combustion chamber. The cylinder head is bolted to the top of the engine
4 block thereby sealing the combustion chamber where the Combustion Cycle takes place.
5 The cylinder head also contains coolant passages – which flow significant amounts of
6 engine coolant – so heat generated during the Combustion Cycle can be transferred away
7 from the engine to prevent the engine from overheating.

8 90. The engine cylinder head houses the spark plugs, intake and exhaust
9 runners, valves, oiling passages, and cooling passages. It also has rockers to open and
10 close the valves, and valve springs that hold the camshafts. The function of the cylinder
11 head is to allow the engine to breathe the air it needs for combustion and expel the
12 exhaust gasses.

13 91. Defendants first issued a Technical Service Bulletin (“TSB”) in October
14 2021 applicable to the Class Vehicles explaining that engine coolant leaks may occur at
15 the cylinder head around the exhaust manifold. As further explained in subsequent
16 TSBs, Defendants noted that there may be cracks at the stud bolt hole or at the outside
17 of the exhaust manifold flange on the cylinder head.

18 92. According to Defendants’ TSB, these cracks may be caused by
19 “[e]xpansion characteristics of the exhaust manifold during usage causing unexpected
20 force to certain areas of the cylinder head. Residual stress generated during production
21 in the cylinder head material may be greater than expected. The external force from the
22 exhaust system when driving over bumps may cause unexpected force to certain areas
23 of the cylinder head. To eliminate this concern, the design of the exhaust manifold
24 gasket and the cylinder head has been modified to reduce the force on the cylinder
25 head.”

26 93. Repair procedures outlined in the TSB include repairs ranging from a
27 replacement of the engine’s cylinder head assembly (along with a modified exhaust
28

gasket) to a replacement engine with only partial warranty approval, leaving Class Members to pay out of pocket for repair of the Engine Coolant Defect.

94. The Engine Coolant Defect may also allow engine coolant into the combustion chamber during the combustion process. Once in the combustion chamber, the engine coolant can mix with the engine oil. When coolant leaks into engine oil, it can reduce the viscosity of the engine oil. This will result in reduced lubrication, which in turn will increase premature failure of the engine and engine components. Once the Engine Coolant Defect causes the mixing of engine oil and engine coolant then engine replacement is required as the internal engine damage cannot be repaired. This not only causes a decrease in engine performance, but also decreases fuel efficiency, causes carbon deposits to form, and will cause catastrophic damage to the engine and various ignition and emission components.

C. Mazda's Longstanding Knowledge of the Defect

95. Upon information and belief, Mazda, through a variety of sources including (1) its own records of customers' complaints, (2) dealership repair records, (3) warranty and post-warranty claims, (4) comments posted on public websites devoted to automotive reviews and vehicle defect reports, (5) and internal pre-sale durability testing and internal investigations (sometimes referred to as "star" reports), was well aware of the Engine Coolant Defect.

1. TSBs Demonstrate Mazda's Longstanding Knowledge of Engine Coolant Defect Issues in its Vehicles

96. Mazda issues Technical Service Bulletins ("TSBs"), Service Alerts ("SAs"), and Special Service Messages ("SSMs") to its authorized dealerships in order to provide instructions on how to repair Mazda vehicles or respond to particular consumer complaints. These communications are not meant for consumer review. Rather, they are intended to standardize service throughout Defendants' agent dealership network. Further, these communications often do not reveal the root cause of a problem, only describe a complaint and a remedy, frequently in terms that a lay person

1 would not understand, and do not disclose the severity or scope across all the vehicles
2 to which the TSB or SSM relates.

3 97. Evidence of Mazda’s knowledge of the Engine Coolant Defect is apparent
4 in TSBs, SAs, and SSMs as early as July 2020.

5 **a. SA-058/20 and SA-031/21**

6 98. In July 2020, Defendants issued SA-058/20 (revised as SA-031/21) titled
7 “NEW CYLINDER HEAD ASSEMBLY ESTABLISHED.” Exhibit 1. This Service
8 Alert was revised in August 2020, December of 2020, May 2021, August 2021, and
9 October 2021.

10 99. The Service Alert provides information about a new cylinder head
11 assembly to make necessary repairs and/or replacements in certain Mazda vehicles.

12 100. The SA is the result of a “supply issue for cylinder heads, gasket sets, and
13 partial engine” needed to perform necessary repairs and/or replacements.

14 101. The SA further instructs its authorized dealerships to inspect certain
15 indicators that are evidence that a vehicle requires repairs, including coolant leak,
16 coolant smell, warp head, engine oil leak, oil smell, oil leak, and excessive leak down.

17 **b. TSB 01-013/21**

18 102. In October of 2021, Defendants issued TSB 01-013/21 titled “COOLANT
19 LEAKS AT CYLINDER HEAD.” Exhibit 2. This TSB was revised in December of
20 2021.

21 103. The TSB 01-013/21 bulletin provides information on diagnosing and
22 repairing the Class Vehicles.

23 104. Specifically, the TSB states that “Some vehicles may have coolant leaks at
24 the cylinder head around the exhaust manifold (as shown below). There may be cracks
25 at the stud bolt hole (1) or at the outside of the exhaust manifold (2).”

26 105. The TSB states that the cracks can be caused by: (1) “Deformation of the
27 exhaust manifold during usage causing unexpected force to certain areas of the cylinder
28

1 head”; and/or (2) “Residual stress generated during production in the cylinder head
2 material may be greater than expected.”

3 106. The TSB states that in order to “eliminate this concern, the design of the
4 exhaust manifold gasket and the cylinder head has been modified to reduce the force on
5 the cylinder head.”

6 107. The necessary repairs are purportedly only covered under Mazda’s
7 Powertrain Warranty, and the TSB does not alter or extend the warranty.

8 **c. TSB 01-007/22**

9 108. In June of 2022, Defendants issued TSB 01-007/22 titled “COOLANT
10 LEAKS AT CYLINDER HEAD.” Exhibit 3. This TSB superseded TSB 01-013/21,
11 which was issued in October and December of 2021.

12 109. TSB 01-007/22 is substantially similar to TSB 01-013/21, and appears to
13 have been issued to correct an error in the operation number under the “WARRANTY
14 INFORMATION” section on page 12, where it replaces the operation number for the
15 CX-9 repair from XXS82ARX to XXS82FRX.

16 **d. TSB 01-002/23**

17 110. In February of 2023, Defendants issued TSB 01-002/23 titled “COOLANT
18 LEAKS AT CYLINDER HEAD.” Exhibit 4. This TSB superseded TSB 01-013/21,
19 which was issued in October and December of 2021, and TSB 01-007/22, which was
20 issued in June of 2022.

21 111. TSB 01-007/22 is substantially similar to TSB 01-013/21 and TSB 01-
22 007/22. Under “DESCRIPTION,” TSB 01-002/23 makes the following changes (in
23 emphasis): “Some vehicles may have coolant leaks at the cylinder head around the
24 exhaust manifold (as shown below). There may be cracks at the stud bolt hole (1) or at
25 the outside of the exhaust manifold **flange (2) on the cylinder head.**”

26 112. Under the cause of the cracking, the TSB also makes the following changes
27 (in emphasis): “**Expansion characteristics of** the exhaust manifold during usage
28 causing unexpected force to certain areas of the cylinder head.”

2. Complaints submitted to NHTSA

113. The National Highway Traffic Safety Administration (“NHTSA”) is a federal agency responsible for ensuring safe roadways and enforcing federal motor vehicle safety standards. Consumers may file vehicle safety-related complaints with NHTSA’s Office of Defects Investigation, where they are logged and published.

114. Under the TREAD Act, Pub. L. No. 106-414, 114 Stat. 1800 (2000), all vehicle manufacturers, including Mazda, are legally obligated to routinely monitor and analyze NHTSA complaints in order to determine whether vehicles or automotive components should be recalled due to safety concerns. Thus, Mazda knew, or should have known, about these NHTSA/ODI consumer complaints close in time to the dates they were filed.

115. Moreover, the content, consistency, and number of these complaints should have alerted Mazda to the Engine Coolant Defect.

116. A sampling of the publicly available NHTSA complaints is included below:⁹

NHTSA ID Number: 11102971

Complaint Date June 21, 2018

Incident Date June 18, 2018

Consumer Location Nyack, NY

Vehicle Identification Number JM3TB3DV5E0****

Summary of Complaint

I WAS SLOWLY APPROACHING A STOP LIGHT WHEN OUR 2014 MAZDA CX-9 STARTED HAVING VIBRATIONS, WHICH AT FIRST CAME FROM UNDERNEATH, BETWEEN THE DRIVER'S ROW AND THE 2ND ROW PASSENGER. IT IMMEDIATELY FELT AS IF THE CAR'S ENGINE WAS ABOUT TO FAIL. I MANAGED TO MAKE THAT RIGHT TURN, CAREFULLY STEPPING ON THE BRAKES, AND CROSSED A RAIL-ROAD CROSSING. THE CAR WAS RUNNING AT A SPEED OF 20 MPH. I SLOWED DOWN TO MAKE ANOTHER RIGHT TURN TOWARDS MY DESTINATION, THEN THE ENGINE ABRUPTLY DIED. THE BATTERY AND CHECK ENGINE LIGHTS SUDDENLY LIT UP ON THE DASHBOARD. FROM THE INTERSECTION'S STOP LIGHT TO THE LOCATION WHERE THE ENGINE FAILED, IT WAS A DISTANCE OF APPROXIMATELY 0.5 MILE. MY WIFE CAME AND PICKED UP OUR 3 CHILDREN FROM THE CORNER OF THE STREET. MY BROTHER-IN-LAW CAME TO MY LOCATION WITH JUMPER CABLES AND GAVE MY ENGINE'S BATTERY A JUMP-START. THE ENGINE STARTED BUT THE VIBRATIONS

⁹ The following complaints are reproduced as they appear online. Any typographical errors are attributable to the original author.

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

WERE STRONGER. THE CAR RAN FOR ANOTHER 0.3 MILE BEFORE IT DIED AGAIN. I HAD THE CAR TOWED TO THE MAZDA DEALERSHIP FROM WHERE I PURCHASED THE CAR. AFTER 1 DAY I WAS TOLD THAT THE INCIDENT WAS POSSIBLY DUE TO A BAD TANK OF GAS. ANOTHER DAY LATER, I WAS TOLD THAT SOMETHING ELSE WAS WRONG WITH THE ENGINE, AND THAT IT WAS UNRELATED TO THE EARLIER SUSPICION OF BAD GAS. AFTER 5 BUSINESS DAYS, I WAS TOLD THAT THE ENGINE'S CYLINDER 6 NEEDS A NEW CYLINDER HEAD. THE OTHER OPTION WAS A COMPLETE ENGINE OVERHAUL. THE CAR HAS NEVER BEEN IN AN ACCIDENT, AND HAS APPROXIMATELY 81,000 MILEAGE. THE ESTIMATED COST FOR REPAIRS WAS \$5,834. THIS IS A VERY SERIOUS SAFETY ISSUE THAT WARRANTS AN INVESTIGATION. HAD THE CAR EXPERIENCED ENGINE FAILURE ON A BUSY INTERSTATE, MY FAMILY AND OTHERS COULD'VE BEEN SERIOUSLY INJURED OR EVEN KILLED.

NHTSA ID Number: 11222956

Complaint Date June 27, 2019

Incident Date June 26, 2019

Consumer Location CASTRO VALLEY, CA

Vehicle Identification Number JM3TB2CA5D0****

Summary of Complaint

THE VEHICLE WAS BEING DRIVEN AT THE TIME ON A BUSY FREEWAY. WHEN STARTED OVERHEATING WITH NO WARNING. THE VEHICLE THEN CUT OFF ON FREEWAY WITH TRAFFIC BEHIND ME AT A FAST SPEED. THANKFULLY I WAS ABLE TO GET TO SHOULDER. TOWED CAR TO SHOP AND WAS TOLD THAT MAZDA HAS FAULTY WATER PUMPS AND THAT MY ENGINE WAS DESTROYED DUE TO COOLANT LEAKING INTO MY OIL WITH TURNED IT TO A THICK MUD. NEW ENGINE NEEDED. I RESEARCHED ONLINE AND THERE ARE COUNTLESS CONSUMERS COMPLAINING OF SAME ISSUE WITH MAZDA. THIS IS EXTREMELY DANGEROUS FOR YOUR CAR TO JUST STOP WHEN TRAVELING AT HIGH SPEEDS OR TRAVELING ON ANY HIGHWAY THERE NEEDS TO BE A RECALL ON THIS FAULTY WATER PUMP INSIDE OF THE MAZDA ENGINE. I BELIEVE SOME ONE SOON WILL BE INJURED OR KILLED BY THIS ISSUE! THANKFULLY IT WASN'T MY CHILD AND I.

NHTSA ID Number: 11252193

Complaint Date August 29, 2019

Incident Date August 23, 2019

Consumer Location HARTFORD, CT

Vehicle Identification Number JM3TB3CV7E0****

Summary of Complaint

MY WIFE TOOK OUR 2014 MAZDA CX-9 TO LIBERTY MAZDA FOR A CHECK ENGINE LIGHT THAT CAME ON THE EVENING BEFORE SHE ALREADY AND AN APPOINTMENT FOR ANOTHER ISSUE. SHE ASKED THEM TO CHECK THE LIGHT AS WELL. AFTER THEIR FINDINGS THEY TOLD SUE THE CAR HAD A CATASTROPHIC WATER PUMP ENGINE FAILURE. THIS WATER PUMP IS LOCATED INSIDE THE TIMING CHAIN COVER AND LEAKS COOLANT IN TO THE ENGINE. AT THIS POINT WE WERE HANDED OVER TO A SALES REP. WHO INFORMED US THIS WAS A FOOLISH DESIGN WITH THE WATER PUMP LOCATED IN THE POWERTRAIN BEHIND THE TIMING CHAIN COVER. THIS CAUSES CATASTROPHIC ENGINE FAILURE WITH NO WARNING THIS IS WRONG AND SHOULD NOT HAPPEN. WE TALKED TO JASON THE SALES MANAGER WHO REITERATED THE SAME MESSAGE AND SAID HE WOULD

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

1 PUT IN A GOOD WORD FOR ME IF COOPERATE CALLED ABOUT MY
2 COMPLAINT. HE DID AND COOPERATE OFFERED US THE EPLAN ON A
3 NEW CAR. APPROXIMATELY \$2,000.00 FOR A CAR VALUED AT \$12-
4 14,000.00 THIS ENGINE WAS MANUFACTURED BY FORD FOR MAZDA AND
5 THE FORD ESCAPES HAVE THE SAME TROUBLE. PLEASE FEEL FREE TO
6 CONTA

7 **NHTSA ID Number:** 11270700

8 **Complaint Date** October 24, 2019

9 **Incident Date** October 22, 2019

10 **Consumer Location** LEMONT, IL

11 **Vehicle Identification Number** JM3TB3CA0E0****

12 **Summary of Complaint**

13 TL* THE CONTACT OWNS A 2014 MAZDA CX-9. WHILE DRIVING
14 APPROXIMATELY 40 MPH, THE VEHICLE LOST POWER AND STALLED
15 WITHOUT WARNING. THE CONTACT WAS ABLE TO RESTART THE
16 VEHICLE AFTER SEVERAL ATTEMPTS; HOWEVER, THE FAILURE
17 RECURRED. THE CONTACT STATED THAT THERE WAS AN ODOR
18 OF COOLANT FLUID AND SMOKE APPEARED FROM THE FRONT OF THE
19 VEHICLE. THE VEHICLE WAS TOWED TO THE CONTACT'S RESIDENCE
20 AND THEN TOWED TO NAPLETON'S COUNTRYSIDE MAZDA(6060 SOUTH
21 LA GRANGE ROAD, COUNTRYSIDE, IL 60525, (708) 354-2700) TO BE
22 DIAGNOSED, WHICH WAS STILL PENDING. THE VEHICLE WAS NOT
23 REPAIRED. THE MANUFACTURER WAS INFORMED OF THE FAILURE. THE
24 APPROXIMATE FAILURE MILEAGE WAS 118,000.

25 **NHTSA ID Number:** 11318595

26 **Complaint Date** March 18, 2020

27 **Incident Date** March 2, 2020

28 **Consumer Location** FAIRFIELD, CT

Vehicle Identification Number JM3KFBCM3J0****

Summary of Complaint

THE ENGINE IN MY MAZDA CX-5 WAS REQUIRED TO BE REPLACED
RECENTLY DUE TO A KNOWN ISSUE IN THE CAR THAT CAUSES THE
REAR HEAD TO LEAK. MY CAR HAS LESS THAN 12,000 MILES ON IT SO
THE ENGINE SHOULD NOT HAVE THIS ISSUE. MY DEALER EXPLAINED TO
ME THIS IS A KNOWN ISSUE BY MAZDA AND HE HAD SEEN 5-10 OTHER
CARS JUST AT HIS DEALER. WE NOTICED THIS ISSUE WHEN MY SON WAS
DRIVING THE CAR AND WE SAW FLUID POURING OUT OF THE BOTTOM.
WE HAD HIM STOP THE CAR IMMEDIATELY AND NOT DRIVE. I TRIED
NUMEROUS TIMES TO GET MAZDA TO ENGAGE TO PROVIDE A BETTER
WARRANTY GIVEN IT IS A NEW CAR SHOULD NOT HAVE A BLOWN
ENGINE WITH ONLY 12,000 MILES AND IT IS A KNOWN ISSUE BUT THEY
REFUSED TO PROVIDE ANY SUPPORT. I ASKED ABOUT WHY NO RECALL
AND THEY JUST STATED THERE IS NO RECALL FOR THIS ISSUE,
ALTHOUGH THE DEALER HIGHLIGHTED MAZDA IS AWARE OF A FLAW
IN THE CAR THAT CAUSED THE REAR HEAD TO LEAK. I WOULD LIKE TO
SEEK SOME ACTION WITH MAZDA TO MAKE THEM DEAL WITH THIS
VERY CONCERNING ISSUE.

///
///
///

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

NHTSA ID Number: 11366824

Complaint Date October 28, 2020

Incident Date October 6, 2020

Consumer Location MARRIOTTSTVILLE, MD

Vehicle Identification Number JM3TB3DV7F0****

Summary of Complaint

WE PURCHASED A 2015 MAZDA CX9 WITH 30,000 MILES THREE YEARS AGO. AT THE START OF THE MONTH, THE CAR SUDDENLY OVERHEATED WHILE DRIVING AND THE ENGINE FAILED! THE MECHANIC SAID THE WATER PUMP FAILED, THE COOLANT MIXED WITH THE ENGINE OIL AND THE ENGINE WAS DONE. \$7944.41 ADDITIONALLY, THE OVERHEATED ENGINE CAUSED THE TRANSMISSION FLUID TO BURN TO A POINT THE TRANSMISSION FAILED. \$4864. THIS HAPPENED AT 65,000 MILES, 5,000 MILES PAST WARRANTY. AFTER RESEARCHING THE PROBLEM, WE LEARNED THAT THIS IS A COMMON PROBLEM ON MAZDAS THAT USE THE DURATECH ENGINE. THERE ARE THOUSANDS OF EXAMPLES AND A CLASS ACTION LAWSUIT.

NHTSA ID Number: 11397924

Complaint Date February 25, 2021

Incident Date February 14, 2021

Consumer Location SAN DIEGO, CA

Vehicle Identification Number JM3KFABM6L0****

Summary of Complaint

MASSIVE OIL LEAK NEAR THE ENGINE AND THE CYLINDER HEAD NEEDS TO BE REPLACED BECAUSE IT IS DEFECTIVE. THIS IS A 2020 VEHICLE. THE GASKET KIT AND THE ENGINE ARE ON BACKORDER SO MY CAR IS AT THE SHOP FOR AN UNDETERMINED AMOUNT OF TIME ON THE ORDER OF POTENTIALLY SEVERAL MONTHS!

NHTSA ID Number: 11445688

Complaint Date December 31, 2021

Incident Date November 26, 2021

Consumer Location HOUSTON, TX

Vehicle Identification Number JM3TCBCY9G0****

Summary of Complaint

Dealer diagnosed manufacturing defect that caused crack in head. {Which could lead to engine failure, and subsequent accident due to engine failure during operation.} Engine lost coolant. No overheating noted. No warning/error codes noted.

NHTSA ID Number: 11464797

Complaint Date May 16, 2022

Incident Date May 1, 2022

Consumer Location ADELANTO, CA

Vehicle Identification Number Jm3TCaCY2g0****

Summary of Complaint

Cylinder head cracked, leaking coolant and causing engine overheated , potential fire hazard . Coolant also leaked and mixed in with oil cycling through engine , causing permanent damage to the engine , resulting engine to be fully replaced

NHTSA ID Number: 11465133

Complaint Date May 18, 2022

Incident Date May 13, 2022

Consumer Location SCHOHARIE, NY

Vehicle Identification Number JM3TCBBY8G0****

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

Summary of Complaint

15 minutes after getting a wheel bearing replaced at the dealer, my engine coolant high temperature warning came on (never before seen). This occurred while I was on the interstate with no safe place to stop. When I was able to safely stop, I called the dealer. They said bring it back. I was unwilling to drive that far so chose the closest Mazda dealer. They informed me I have a cracked cylinder and the coolant is leaking into exhaust system. I was told the only option due to the mileage on the car (134,000) is to replace the engine for \$8,000. This appears to be a known issue so I am shocked that it wasn't being checked for prior to the problem.

NHTSA ID Number: 11467194

Complaint Date June 2, 2022

Incident Date January 13, 2022

Consumer Location PHILADELPHIA, PA

Vehicle Identification Number JM3TCBDY1J0****

Summary of Complaint

had loss of coolant mid to late January 2022, which lead to over heating notifications. Upon inspection at dealer (Pacifico Mazda Philadelphia PA), it was determined that i had a cracked cylinder head. Initially dealer said they were to replace just the cylinder head & after about 1 week they said that the engine would be replaced. Received car back 4/06/22

NHTSA ID Number: 11467927

Complaint Date June 7, 2022

Incident Date February 14, 2022

Consumer Location CENTERVILLE, TN

Vehicle Identification Number JM3TCBBYXG0****

Summary of Complaint

Purchased the car used with 67k miles on it. Within 2 weeks of purchase warning lights went off saying that the engine was overheating due to censor malfunction. After three visits to mechanics (2 to the dealership and 1 to a private mechanic) it was determined that coolant was leaking into the engine causing the engine block to crack. This of course means that the engine will have to be replaced in order for it to be useable. That repair has been quoted by the dealership as a \$14,000 repair. For a car that has less than 70k miles.

NHTSA ID Number: 11468721

Complaint Date June 10, 2022

Incident Date April 12, 2021

Consumer Location GOSHEN, KY

Vehicle Identification Number JM3TCBDYXG0****

Summary of Complaint

Cracked cylinder head due to manufacturing defect, left stranded at car wash with no engine coolant due to issue, took several months without a vehicle before it was replaced by Mazda. The vehicle has been repaired. I was left unable to drive in hot weather and could not use air conditioning while waiting for assistance. Dealer had seen the issue before, reported by many on online Mazda forums. There were no warning lamps prior to the incident happening.

NHTSA ID Number: 11469416

Complaint Date June 15, 2022

Incident Date June 14, 2022

Consumer Location WEST SAND LAKE, NY

Vehicle Identification Number JM3TCBBY5H0****

Summary of Complaint

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

What component or system failed or malfunctioned, and is it available for inspection upon request? Cylinder head has cracked and the vehicle leaked coolant and overheated while driving leading to engine failure. Vehicle is available for inspection How was your safety or the safety of others put at risk? Car overheated while driving leading to engine failure Has the problem been reproduced or confirmed by a dealer or independent service center? Dealer has diagnosed the problem as a cracked cylinder head Has the vehicle or component been inspected by the manufacturer, police, insurance representatives or others? Yes, dealer has diagnosed issue and recommended replacement Were there any warning lamps, messages or other symptoms of the problem prior to the failure, and when did they first appear? Engine temperature sensor went off and within seconds car was not driveable due to fluid loss

NHTSA ID Number: 11470452

Complaint Date June 22, 2022

Incident Date June 15, 2022

Consumer Location CORPUS CHRISTI, TX

Vehicle Identification Number JM3TCBEY6G0****

Summary of Complaint

I drove my 2016 cx-9 off highway and idled it at front of restaurant, suddenly the engine coolant overheat light came on, shut engine off and found leaking coolant on the ground near the rear of engine bay. Brought the car to Corpus Christi Mazda, found out leaks come from cylinder head crack, happens to cx-9 manufactured before June 20, 2020 according to Mazda TSB 01-013/21. I was quoted \$3380 to replace the cylinder head out of pocket because the car is just out of powertrain warranty. I contacted Mazda headquarter for covering the cost out of goodwill since this is due to manufacture defects of cylinder head. Mazda refused to pay.

NHTSA ID Number: 11471878

Complaint Date June 30, 2022

Incident Date May 18, 2022

Consumer Location OCEANO, CA

Vehicle Identification Number jm3tcbcyxh0****

Summary of Complaint

Technician noticed coolant leak around turbo during routine maintenance. Sometimes after long drives we would smell hot coolant but didn't think it was an issue. Dealership took it in for repair under power train warranty and was advised that the engine needs to be replaced. From my understanding, the turbo is too heavy for the engine and has caused it to warp. The coolant leak is a symptom of a damaged engine block.

NHTSA ID Number: 11474135

Complaint Date June 15, 2022

Incident Date April 21, 2022

Consumer Location KNOXVILLE, TN

Vehicle Identification Number jm3tcbdy1g0****

Summary of Complaint

On 04/21/22, I took my car to the dealer after noticing antifreeze on our garage floor and a burning smell. NO check engine lights had illuminated. They proceeded to tell me that there was a coolant leak from head/block and cavity leak (something about channel pressure). They also stated this was a casting flaw during manufacturing of the engine. They told me I needed a whole new engine for \$8,479.97! Mazda corporate refused to replace the engine at their cost because I had 64,575 miles on it and it was out of powertrain warranty. I called them and asked to speak to a supervisor and never heard from them. I called on 4/26, 4/27, 4/28, 5/4, 5/5 (5 times), 6/9, & 6/20. I finally gave up agreed to pay \$7,479.97 (the dealer gave me \$1,000 off). I

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

received the car back on 05/20 and it would not start later that day. They towed it back to Mazda and they replaced the crankshaft sensor that was damaged upon install of the new engine. I received it back again on 05/31 and later in the day, the check engine light came on and the automatic braking system engaged while I was driving (thankfully only 40 mph). I managed to pull over in a turn lane before the engine died. I was so thankful I did not make it onto the interstate I was about to enter! Mazda came and picked me up and later got my car. They could not figure out why it was dying and finally got it to recreate it. They replaced another engine sensor and then drove it a lot to make sure it was truly fixed. I finally received my vehicle back on 07/07. I am afraid to take my car out of town and it makes me nervous it will die and automatically start braking again. They KNOW this is a manufacturer issue and they refuse to take responsibility. I am so disappointed in them. This is a huge safety issue. I am also lucky I didn't blow a head gasket before I took it into the shop the first time.

NHTSA ID Number: 11471396

Complaint Date June 28, 2022

Incident Date June 28, 2022

Consumer Location GAITHERSBURG, MD

Vehicle Identification Number JM1GL1WY9J1****

Summary of Complaint

Took care for routine maintenance to car dealer (Ourisman Mazda Rockville MD). No problems with car. They reported that I had an 'Coolant Leak at the Cylinder Head'. Cost to fix: \$6412.47 They reported that it was 'normal wear and tear'. I found a service bulletin from Mazda whereby they admit a manufacturing defect that affected 2.5T engines. They corrected on March 25th, 2021. However, engines prior to this date had this defect. No recalls were created. No warning to owners. My car was within the mileage warranty when they identified the defect (<60k miles and < 5 yrs old). While my car is less than 5 years old, they now identified the leak, but it has over 60k miles. The local dealer said I was out of warranty and there is nothing they could do. I spoke with Mazda North American Operation and reported the Technical Service Bulletin that they put out on 10/15/21 (after they had already identified the problem, re-engineered the engine, and changed the manufacturing line), I also explained what was reported to me by Ourisman Mazda and emailed her all the documents. She reported that she would be getting back to me in 24-48 hrs.

NHTSA ID Number: 11477027

Complaint Date August 1, 2022

Incident Date July 28, 2022

Consumer Location SACHSE, TX

Vehicle Identification Number JM3TCADY9G0****

Summary of Complaint

2016 cx9, after reviewing online. Known issue with coolant and engine cylinder. Water coolant leak to engine head. Dealer asking 75k to replace engine. Mazda refused to acknowledge the known issue.

NHTSA ID Number: 11480443

Complaint Date August 21, 2022

Incident Date July 30, 2019

Consumer Location QUEEN CREEK, AZ

Vehicle Identification Number JM3TCABY0G0****

Summary of Complaint

Engine Coolant Leaking from rear of engine near Exhaust / turbocharger at Cylinder Head. No Warning Lights indicating problem until coolant level low causing overheating and fire risk. Rear Brakes not releasing completely from "City Mode" where brakes are kept close to rotor "to increase braking response in City driving" -

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

causes premature brake wear, warped brake rotors (reoccurs within 10K miles from new / replaced rotors) Front Bumper Fascia keeps coming loose at clips near headlights on both Driver and passenger side. Had replaced at dealership 3 times, but continues. Bumper coming loose and can obstruct headlights while moving around at highway speeds

NHTSA ID Number: 11481366

Complaint Date August 26, 2022

Incident Date August 19, 2022

Consumer Location VANCOUVER, WA

Vehicle Identification Number JM3TCBDY7J0****

Summary of Complaint

While commuting home on 8/19/22 my CX-9 began overheating and coolant temp. warning light illuminated on dash. This was a dangerous situation as I had to stop in the middle of traffic for fear of ruining my car and risk getting rear-ended and also navigate to the shoulder of the road. Took the car to the dealership where they confirmed P111A engine overheated DTC and coolant leak. CX-9 has a cracked cylinder head, the exact problem outlined in Mazda TSB 01-013/21. This happened at 61,xxx miles...roughly 1,000 miles outside the powertrain warranty however it's highly likely this crack and leak developed well before the end of the powertrain warranty period.

NHTSA ID Number: 11482726

Complaint Date September 3, 2022

Incident Date August 24, 2022

Consumer Location SPRINGFIELD, VA

Vehicle Identification Number JM3TCBDY3J0****

Summary of Complaint

I purchased my 2018 Mazda CX-9 Grand Touring CPO with 39k miles and was sold the life time extended powertrain warranty through the dealership. The car now has 74k miles. While sitting idle at the school bus stop in my neighborhood waiting for my daughter the temperature gauge light comes on. I immediately drive home (exactly 0.3 miles) not going over 10mph back home, park call a tow truck company to tow it to the Priority Mazda dealership in Tysons Corner, VA from which I bought it. After a few days the mechanic calls and tells me there is a coolant leak and the repairs for the Cylinder Head should be covered under my lifetime extended warranty. A few days later I get a text message from the service rep that states. "Unfortunately, the extended warranty has denied coverage of the Cylinder Head, stating it to not be an internally lubricated issue....we need to fully inspect to determine what is needed (cylinder head or full engine due to overheating) Cost of teardown \$1,432." After speaking to the service rep directly he then tells me the coverage was actually denied because Mazda put out a TSB on this known issue which voided my extended warranty on the cylinder head. This TSB bulletin no.01-007/22 was just issued 2 months before this happened. We should not be responsible for a known engine issue on Mazda's flagship car after purchasing an extended warranty for this very reason.

NHTSA ID Number: 11483237

Complaint Date September 7, 2022

Incident Date August 23, 2022

Consumer Location RANCHO MISSION VIEJO, CA

Vehicle Identification Number JM3TCBEY5G0****

Summary of Complaint

My Engine is over heading because it has a crack and losing coolant externally. There are 74773 mills on my car. Every 3 weeks I have to put a gallon of coolant in the

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

engine. if I don't put coolant, the engine can stop working on the freeway causing bodily injury to me and other drivers.

NHTSA ID Number: 11486142

Complaint Date September 23, 2022

Incident Date September 23, 2022

Consumer Location BROUSSARD, LA

Vehicle Identification Number JM3TCBEY1H0****

Summary of Complaint

Vehicle has only 50k miles and developed a coolant leak which was caused by a crack in the cylinder head. No check engine light or overheating, but this repair will cost was estimated as over \$4k. A cracked cylinder head would eventually lead to vehicle overheating which can put driver and passengers in a dangerous situation if vehicle were to overheat while operating as this is a significant engine repair. After dealer technician inspected the part, I was informed that they don't see overheating or poor maintenance as the cause of this issue, but it was caused by the part failing.

NHTSA ID Number: 11489489

Complaint Date October 16, 2022

Incident Date July 18, 2022

Consumer Location LEXINGTON, SC

Vehicle Identification Number JM3TCACY5J0****

Summary of Complaint

The cylinder head failed causing a massive leak of engine coolant. This occurred initially at highway speeds which caused potential danger to myself and others around me as the car was required to pull over immediately. The problem was confirmed by the dealer and is known to the manufacturer as indicated by TSBs. The part was inspected and replaced by a new, redesigned part at the owner's expense.

NHTSA ID Number: 11490188

Complaint Date October 20, 2022

Incident Date October 9, 2022

Consumer Location LANCASTER, PA

Vehicle Identification Number JM3TCBCY7J0****

Summary of Complaint

I have a 2018 Mazda CX-9 with about 66,000 miles. I noticed a coolant leak when my SUV sat in my driveway. It was there each night after driving the SUV. I took the vehicle to a Mazda dealer who stated that the coolant leak is from a cracked cylinder head. A cylinder head should not crack in 4 years and only 66,000 miles. This is a known Mazda issue for this year make and model.

NHTSA ID Number: 11492830

Complaint Date November 8, 2022

Incident Date October 24, 2022

Consumer Location LOS ANGELES, CA

Vehicle Identification Number JM3TCBEY4H0****

Summary of Complaint

The first sign of an issue was an oil pressure indicator on the dashboard, but upon inspection, the oil levels seemed completely normal. The dashboard light went away shortly after that. A day later, I was on my lunch break and parked my car in a garage for 45 minutes. On the drive there, I did not notice any issues and was able to operate the vehicle fine for the short distance that I drove. When I returned to my parked car, there was a large puddle of oil underneath. I immediately had a mechanic take a look at the car. The mechanic was able to identify a cracked cylinder head, which led to water and coolant entering the engine. He highly suspects that this caused a blown

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

head gasket in the car as well. As well as that, the car's starter, which worked just fine on day 1 of the issue and has never had any problems before, has totally ceased function. If I had not noticed the oil pool underneath the car and driven back to work as usual, it could have caused the engine to seize and create a very dangerous situation for myself and others on the road, including but not limited to the potential of an engine fire with the level of oil lost. The car was up to date on its servicing, including oil changes. Two ASE certified mechanics have inspected the vehicle and confirmed the leaked fluids and aforementioned issues. No other professionals inspected the vehicle (insurance representatives, law enforcement, etc.).

NHTSA ID Number: 11493144

Complaint Date November 10, 2022

Incident Date November 6, 2022

Consumer Location BETHESDA, MD

Vehicle Identification Number JM3TCBCY8G0****

Summary of Complaint

A strong coolant smell was noticed in the interior of the car and from the engine compartment. The diagnosis from the Mazda service facility was that there was coolant leaking from the head on the engine. Eventually this would have led to overheating of the vehicle which could have resulted in significant engine damage. The manufacturer has issued a technical service bulletin (TSB) for this problem. Cracking of the head that leads to coolant leaks is a known problem with this engine in several different models of Mazda including CX-5, CX-9, and Mazda 6. Our vehicle has remained in the shop since it was taken in on 11/8/2022.

NHTSA ID Number: 11493746

Complaint Date November 16, 2022

Incident Date November 15, 2022

Consumer Location ROSENBERG, TX

Vehicle Identification Number JM3TCACY4G0****

Summary of Complaint

Cracked Cylinder Head due to Coolant Leak - SB 01-013/21. This is a known issue with Mazda, yet it has happened with the vehicle being serviced regularly. This is happens directly after the warranty period and it is not being covered.

NHTSA ID Number: 11494806

Complaint Date November 24, 2022

Incident Date November 18, 2022

Consumer Location SPRINGFIELD, MO

Vehicle Identification Number JM3TCBDY8H0****

Summary of Complaint

Coolant leak. Cracked cylinder head in a stud hole of the exhaust manifold. 70,000 miles Seems to be a problem with many other owners.

NHTSA ID Number: 11495062

Complaint Date November 27, 2022

Incident Date October 14, 2022

Consumer Location HARRISBURG, PA

Vehicle Identification Number JM3TCBEY3H0****

Summary of Complaint

This problem has been documented and know by Mazda for awhile. They are aware that their 2.5 Turbo liter engine has the problem of cracking the cylinder head due to some overweight of the same engine component. My Mazda local dealer already inspected the car and told me that the fix is replacing the whole cylinder head, which with them would cost me 3.5k. My warranty company, which I purchased when

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

buying this used car, didn't took responsibility of the repair cost because it was pre existing condition before I bought the car. Many people over the internet have reported this same issue happening to them, models year between 2016-2019. This issue cause a leaking of coolant. Which in my case has been a lot built up, to the point that you can grab it with your hands (the coolant residual).

NHTSA ID Number: 11498304

Complaint Date December 20, 2022

Incident Date December 20, 2022

Consumer Location INDIANAPOLIS, IN

Vehicle Identification Number JM3TCACY9G0****

Summary of Complaint

I am being told by the dealership service center that there is a coolant leak from the engine. A previous coolant look due to a hose was repaired but this is a separate issue related to the TSB for coolant leak at the cylinder head Bulletin 01-007/22

NHTSA ID Number: 11498923

Complaint Date December 26, 2022

Incident Date December 9, 2021

Consumer Location MYRTLE BEACH, SC

Vehicle Identification Number JM3TCADY4G0****

Summary of Complaint

At an intersection the engine stalled and car was extremely hard to restart (took several minutes). I later noticed oil and coolant dripping from the engine and coolant mist/vapor from the exhaust. Later I learned it was possibly related to Mazda's own TSB Bulletin No: 01-013/21 where a manufacturing defect caused coolant to enter the combustion chamber and hydro lock the engine (where I stalled and had hard time restarting). I had to have the car towed home. At home I noticed the passenger underside of the vehicle coated with oily/watery residue of possible oil or oil/coolant mix. Vehicle had 66K miles on and Mazda dealer refused to fix.

NHTSA ID Number: 11499063

Complaint Date December 27, 2022

Incident Date October 31, 2022

Consumer Location CLAWSON, MI

Vehicle Identification Number JM3TCBCYXJ0****

Summary of Complaint

After owning this used vehicle for about 11 months, the engine temperature gauge indicated the car was running hot - about 240 degrees. After inspecting the vehicle at home, we added coolant to the system. This helped maintain engine temperature temporarily, but we noted over the next several weeks that the coolant was dropping rapidly. After inspection by a Mazda dealer, it was concluded that the cylinder head needed replacing.

NHTSA ID Number: 11499031

Complaint Date December 27, 2022

Incident Date December 16, 2022

Consumer Location EPHRATA, PA

Vehicle Identification Number JM3TCBCY5H0****

Summary of Complaint

Coolant leak from a cracked cylinder head that mazda is aware of and released a TSB about. Refusing to extend warranty or fix due to being 6 months out of 60 month power train warranty. Still under 60,000 miles.

NHTSA ID Number: 11499498

Complaint Date December 30, 2022

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

Incident Date September 6, 2022

Consumer Location SAN ANTONIO, TX

Vehicle Identification Number JM3TCABY0G0****

Summary of Complaint

Car overheated. check front engine and could not see any visible leaks. check all around the engine and found coolant leaking from the back of the engine. confirm by dealer that is leaking at the cylinder head.

NHTSA ID Number: 11501873

Complaint Date January 15, 2023

Incident Date January 14, 2023

Consumer Location BROCKTON, MA

Vehicle Identification Number JM3TCBCY8J0****

Summary of Complaint

Driving the car home from work, the engine temperature gauge started to go up high. I added coolant that same night. Went to the dealership for a check up. I was told the coolant was coming out from the back of the engine and will need to partial repair the engine. Only 75k miles in the engine and that was an estimate cause I could need a brand new engine. Now I'm stranded with out a car waiting for a response. MAZDA should do a recall regarding that issue cause I've seen a lot of CX9s have the same issue. THATS NOT GOOD FOR RELIABILITY.

NHTSA ID Number: 11503274

Complaint Date January 23, 2023

Incident Date January 23, 2023

Consumer Location SAN ANTONIO, TX

Vehicle Identification Number JM3TCBDYXG0****

Summary of Complaint

I took my car into the dealership and was told that I had a cracked cylinder head and the car is leaking coolant near the rear of the engine. This could cause the engine to cease should coolant get into the engine. The dealer (North Park Mazda, San Antonio) has confirmed this as the issue. I have received a video of the inspection from the dealership explaining the issue. The vehicle displayed a warning that it was overheating which is what prompted me to bring the vehicle in for service.

NHTSA ID Number: 11506345

Complaint Date February 9, 2023

Incident Date February 1, 2023

Consumer Location LANSING, MI

Vehicle Identification Number JM3KFBDM0K0****

Summary of Complaint

I drove my wife to work and noticed that the car was stuttering and had weak acceleration. I parked in my garage and a couple of hours later returned to see a massive oil leak on my driveway, I had to tow the car to the nearest dealership where a cracked cylinder was diagnosed. There was also a terrible burning smell. If the massive leak happened on an acceleration ramp or on the highway there could have been an accident.

NHTSA ID Number: 11507063

Complaint Date February 13, 2023

Incident Date February 11, 2023

Consumer Location ITASCA, IL

Vehicle Identification Number JM3TCBCY0J0****

Summary of Complaint

This weekend Mazda CX-9 started leaking coolant from the firewall side.

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

NHTSA ID Number: 11507815

Complaint Date February 17, 2023

Incident Date January 5, 2023

Consumer Location SIMPSONVILLE, SC

Vehicle Identification Number JM3TCBDY4G0****

Summary of Complaint

Head gasket blew in a 2016 Mazda CX9 while driving causing us to as safely as possible quickly get off the road from the middle lane of an interstate. This is from a known coolant leak in the cylinder head from service bulletin 01-013/21.

NHTSA ID Number: 11507876

Complaint Date February 17, 2023

Incident Date January 28, 2023

Consumer Location Unknown

Vehicle Identification Number JM3KFACMXK1****

Summary of Complaint

The contact owns a 2019 Mazda CX-5. The contact stated became aware of engine oil on his driveway. The contact stated that while driving and coming to a stop, there was an abnormal oil burning odor inside the vehicle. The contact stated the check engine warning was illuminated. The contact had taken the vehicle to an independent mechanic who diagnosed that there was an oil leak coming from the cylinder head and determined that the cylinder head needed to be replaced. The independent mechanic researched online and related the oil leak failure to Mazda Service Alert Number: SA-031/21 (Engine and Engine Cooling). The vehicle had not been repaired. The manufacturer had been informed of the failure. The failure mileage was approximately 89,000

NHTSA ID Number: 11508779

Incident Date February 13, 2023

Complaint Date February 23, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCBEY7K0****

Summary of Complaint

The coolant was leaking due to a crack in cylinder. The car overheated and the coolant leaked into the engine. Mazda refuses to identify this as an ongoing issue with the Mazda turbo skyactiv models

NHTSA ID Number: 11511374

Complaint Date March 11, 2023

Incident Date February 8, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCBEYXJ0****

Summary of Complaint

Coolant leak into cylinder head, resulting in overheating and blown head gasket. Repair cost was \$7k to resurface cylinder head and replace gasket. Repair did not fix issue, likely due to unseen cracks or warping to cylinder head. Will require rework, likely entire engine replacement, as the defect cannot be corrected.

NHTSA ID Number: 11514437

Complaint Date March 29, 2023

Incident Date March 23, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCADY2H0****

Summary of Complaint

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

Known engineering flaw that causes cylinder head to crack and leak coolant. Mazda will not do a recall even though numerous people are requiring new motors with no previous issues or warning lights on the car.

NHTSA ID Number: 11514604

Complaint Date March 30, 2023

Incident Date March 18, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCADY7J0****

Summary of Complaint

I own a 2018 Mazda CX – 9 with only 53,300 miles. I noticed something was wrong with my engine and had no idea what the issue was. My car would not shut off immediately when I turned it off and the fan was on super high speed. The day before my appointment with my mechanic, the engine light turned on. I was stuck in a parking lot and a friend suggested I use his car to go buy coolant just in case it was needed. Sure enough, I was completely out of coolant. When my mechanic inspected the car he told me I had a coolant leak and suggested I take it to the dealer as they would know immediately what the problem was. I started researching to see if this was a defect and sure enough, Mazda has been aware of the defect with the cylinder head (TSB) not supporting the turbo of the engine causing it to crack and mix with the engine oil in various models for years, yet continue to sell cars with this known defect. I understand that it may not be life threatening yet! But it could have been should my engine had blown while I was on the freeway causing a horrific accident. How are they allowed to continue manufacturing and sell cars with a known issue for years and not even be required to make a recall to have the part replaced with a stronger one? This issue is happening to 100's of customers worldwide. This is something that should be investigated.

NHTSA ID Number: 11515906

Complaint Date April 7, 2023

Incident Date January 5, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCBCY5J0****

Summary of Complaint

Coolant leak at cylinder head. It is available for inspection. Driving on the highway and the car overheating light came on. Yes it has been reproduced and diagnosed as part of the TSB 01-013/21. No warnings, no notice of leaks before this happened. Noticed this in January - and thought it was just a one off and had the coolant topped off. Nothing happened until a month later that is when I took it to the mazda dealer. Safety issue as no one knows about it until their light comes on and they take it to the dealer to look at. Having this happen in the middle of nowhere on a highway with three small kids is a nightmare. This issue needs to be investigated. It is definitely a safety issue. It is shocking to know that Mazda has known about this for a couple years now based on the date of the TSB. A letter, at the very least, should have been sent out to all owners. Instead they let us all sit with a ticking time bomb that will be cost prohibitive to fix

NHTSA ID Number: 11517947

Complaint Date April 19, 2023

Incident Date April 19, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCBCY7H0****

Summary of Complaint

Driving home the car said 26 miles to E. while in gear going down the road it popped engine system malfunction and the whole car shut off and wouldn't start. Didn't drive

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

the vehicle for 2 days- filled the gas tank and it drove fine for 5 days. Day 6- 4/8/2023, fine driving down the highway 45 minutes. Go down about a mile and it still doesn't seem right, I move lanes and the thermostat light starts flashing at 260, as soon as I make the turn it tells me to pull over and turn the car off-it was at 270. Go to drive across the street to get coolant later- car stalls when I shift into drive. Park it- get coolant takes an entire jug. Idling a little rough, but not bad. Mechanic he can't see any issues, computer is throwing out fuel system codes but no, issues that can be found. Does a tune up on it, pick it up. Smoking when I start the car and something smells burning. Driving home, it stalls again while in gar at a red light. RPM jumping between 500 and 750 while in gear. Park it for a few hours- everything seems fine. Drive 35 minutes- mostly highway. RPM isn't moving when in park vs neutral. While at last red light before home- engine system malfunction comes on. Driving a few miles down the road still on, temperature at 200. Drive about half a mile down the road- at 260 as I'm pulling into my driveway. Towed to Mazda the next day. Got diagnosis that the head lifted and coolant mixed into oil, flooding engine. Need a new engine and turbo- \$10,000 to fix it. Never had issues prior and no signs of anything going wrong. Oil change done 2 weeks prior to this all starting.

NHTSA ID Number: 11519188

Complaint Date April 27, 2023

Incident Date March 30, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCBDY2H0****

Summary of Complaint

Coolant Leak at Cylinder head. There is a known TBS01-013/21 They refused to pay for any of the cost to replace the engine. My out of pocket cost was \$10K.

NHTSA ID Number: 11519310

Complaint Date April 27, 2023

Incident Date April 17, 2023

Consumer Location Unknown

Vehicle Identification Number JM3KFBCM9K1****

Summary of Complaint

My 2019 Mazda CX-5 has 61,500 miles on it and has a cracked cylinder head and has a massive oil leak. I took it to the dealer and they are aware of this issue but told me Mazda hasn't so far made a recall. No warning lights went off and i lost 1 quart of oil over a 30 mile drive. Upon Acceleration the engine could seize and could cause a crash. A fire is also not out of the question as the parts in the engine area are hot and oil can catch fire. Mazda declined to pay for the total cost of the repair but did partially pay for some of it. They should be held accountable for the lousy design and it's only a matter of time someone will have an accident because of it.

NHTSA ID Number: 11519366

Complaint Date April 28, 2023

Incident Date April 27, 2023

Consumer Location Unknown

Vehicle Identification Number JM1GL1TY0J1****

Summary of Complaint

Just noticed my coolant was leaking underneath my car and i went to mazda to check and it came out being a cracked cylinder the car are driven by my daughter from school to work only and has 68k miles, mazda doesn't want to fix because supposedly the engine warranty only last until 60k

NHTSA ID Number: 11521555

Complaint Date May 11, 2023

Incident Date April 27, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCACY6J0****

Summary of Complaint

Bought car new in 2018. At 72,600 observed coolant leaking from backside of motor. Carried to Classic Mazda of Texarkana, TX for diagnostic test. Has a cracked cylinder head. Mazda refused to pay to fix or assume any responsibility for the design flaw. Turbo charger is too close to the cylinder head causing heat issues over time resulting in cracked head/coolant leak.

NHTSA ID Number: 11522138

Complaint Date May 15, 2023

Incident Date April 16, 2023

Consumer Location Unknown

Vehicle Identification Number JM1GL1WY5J1****

Summary of Complaint

Due to design issues, the engine cylinder head became cracked after normal everyday usage. Coolant began to leak badly and car engine became hot while driving.

NHTSA ID Number: 11522527

Complaint Date May 17, 2023

Incident Date May 10, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCBEY3H0****

Summary of Complaint

Engine leaking coolant due to a cracked cylinder head. 55,000 miles on car. No indications of a problem other than odor. Problem was confirmed by an independent service center and dealer. Dealer says engine needs replaced.

NHTSA ID Number: 11522720

Complaint Date May 18, 2023

Incident Date May 8, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCBDY0J0****

Summary of Complaint

Engine cylinder head cracks open due to bad design where turbo puts too much weight and vibration resulting in coolant leaking out of engine. Mazda has a bulletin out for this issue and I took it to a Mazda dealer for repair. They confirmed this was the issue.

NHTSA ID Number: 11524109

Complaint Date May 27, 2023

Incident Date May 22, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCBEY9K0****

Summary of Complaint

My 2019 Mazda CX-9 Signature has developed a coolant leak at the back side of the engine that is consistent with Mazda TSB 01-013/21. Coolant leaks down onto the oil filter and the exhaust where it's burned off. Currently, I can drive the vehicle, but I need to refill the radiator and coolant reservoir. I'm concerned about this developing into a catastrophic leak that could seize the engine or cause a fire from contact with the exhaust. This vehicle is still under the warranty period of 5 years/60K miles. I will initially contact the dealer regarding this issue.

NHTSA ID Number: 11525408

Complaint Date June 5, 2023

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

Incident Date May 25, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCADY6J0****

Summary of Complaint

coolant leaks at the cylinder head around the exhaust manifold , safety was compromised by car overheating in the middle of extremely high level traffic, problem confirmed by Mazda dealership, only inspected by dealership, there was no warning indicators from the vehicle. I could smell antifreeze the day before it overheated.

NHTSA ID Number: 11525329

Complaint Date June 5, 2023

Incident Date October 28, 2022

Consumer Location Unknown

Vehicle Identification Number JM3TCBCY8K0****

Summary of Complaint

The engine developed a sudden coolant leak on the rear of the engine. A warning comes up stating that the car could overheat and lose power. After a few minutes and no sign of the car overheating, the car loses power and slows down on its own. The car has not yet been seen by the dealer or a repair shop due to no appointments available. Mazda USA has issued a TSB stating the issue with the engine and they state that a design flaw causes the cylinder head to crack because of the external forces from the exhaust system over bumps. The failure appeared all of a sudden with no warning lights or indications, it just started leaking a small amount of coolant one day. Now I'm waiting for Mazda USA to tell us how they are going to remedy this issue and provide assistance. According to their TSB this affects three different vehicle models with the same 2.5L turbo engine built from 2016 to 2020.

NHTSA ID Number: 11526241

Complaint Date June 9, 2023

Incident Date June 6, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCACY4K0****

Summary of Complaint

On the last week of May, my car started experiencing sputtering and stalling out problems. I made an appointment at Mazda dealership for June 6th. meantime my husband checked all fluids and coolant was low so we topped up. Car was being driven very limited due to safety concerns. Then While driving on the freeway my car displayed a "excessive engine temperature, engine output will be limited" immediately my car reduced speed from about 65mph to under 15 mph while having my whole family including myself and 4 children in the car. We almost got hit by several cars while trying to get over to the shoulder. Once pulled over to the shoulder my husband came and followed me home on the back streets. Once again checked fluids and coolant again was back low this time empty. So In a day it completely had no coolant left. When taken into Mazda dealership for the appointment, customer service was so horrible I ended up leaving and taking my car to a 3rd party service center. Was advised to have a Hydrocarbon test on cooling system that measured at zero, then advised to take it for a diagnostic due to the sputtering, stalling and coolant leak, where they ultimately determined the coolant was leaking into combustion chamber &/or intake system. Pressure test shows drop in pressure, no visible external leaks present. TSB# 01-002/23 pertaining to cylinder head assembly replacement. Now I'm waiting for my appointment at a different Mazda dealership on June 12th! Please help

NHTSA ID Number: 11527344

Complaint Date June 16, 2023

Incident Date May 14, 2023

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

Consumer Location Unknown
Vehicle Identification Number JM3TCBDY6J0****

Summary of Complaint

A coolant leak appeared around 60,000 miles. I caught it in the right time as I had no more coolant left in the reservoir. I filled it back up and drove it to the Mazda dealership - I did not overheat at all so no warning lamps appeared. Upon taking it into the Mazda dealership, the engine was pulled and it was discovered that the cylinder head was cracked. This requires a new engine. There is a TSB out on this issue. It is a known issue apparently from a casting defect in the heads / block.

NHTSA ID Number: 11527919

Complaint Date June 20, 2023

Incident Date June 19, 2023

Consumer Location Unknown

Vehicle Identification Number JM3KFBDM3K0****

Summary of Complaint

Oil light came on. Cracked cylinder head causing oil to leak in rear of engine onto exhaust system. This gives off burnt oil smell into vehicle passenger area. Concerned this could cause fire. Vehicle was taken back to dealer where it was found to be leaking. Dealer stated will order new cylinder head but does not know when it will be in. dealer stated drive vehicle until part comes in.

NHTSA ID Number: 11528448

Complaint Date June 23, 2023

Incident Date June 12, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCBCY1G0****

Summary of Complaint

My 2016 Mazda CX-9 2.5i Touring has approx 67,500 miles. I noticed the "sweet" smell of coolant after driving. The temp gauge was not showing signs of overheating. I checked under the hood and coolant level in radiator and reserve tank were normal. I also did not see any coolant leak/patches under the car. Few days later the car temperature gauge shot past the 1/2 mark. i stopped the care let it cool and checked under hood. radiator was empty but reservoir tank was still full. there were signs of coolant drips underneath car on the plastic cover below the area of the water pump (passenger front wheel side). waiting to have car assessed/fixed by mechanic.

NHTSA ID Number: 11530871

Complaint Date July 7, 2023

Incident Date June 29, 2023

Consumer Location Unknown

Vehicle Identification Number JM3TCABY3G0****

Summary of Complaint

First radiator blew (after noticing the temp gauge higher than normal and fan running a lot), and when replaced, the 2016 Mazda CX-9 continued to leak coolant. Took it to dealership to find out engine cylinder cracked and head gasket. A simple google search finds that so many Turbo Mazda's between the years of 2016-20 experienced this design flaw as well. Mazda would not cover any of it since the car was out of warranty. It costed me over \$7,000 to repair radiator and engine.

///

///

///

3. Complaints on Heavily Trafficked Internet Forums for Car Owners Should Have Given Mazda Knowledge of the Engine Coolant Defect

117. Consumer complaints regarding the Engine Coolant Defect are present on numerous websites devoted to automotive reviews, automobile repairs, car complaints, and the Class Vehicles specifically. Over the last several years, hundreds of comments have been published on these sites in response to posts related to cylinder head cracking in the Class Vehicles.

118. On a forum entitled “Mazdas 24/7,” over 850 comments accumulated, many of them citing similar instances, under a thread opened to specifically discuss “2.5T Coolant Leak/Engine Replacement” in a sub-forum specific to the CX-9 in May 2021. The original poster, arock712, posted “There are a few threads regarding the 2.5 turbo coolant leak problem and ultimately having to replace the engine. What I'd like to know is there anything that can be inspected and possibly fixed with this issue before it gets to the point of actually needing a new engine?”¹⁰ Numerous posters commented on the severity of the Defect, including “Mazdiod2” who correctly observed that “If it's leaking coolant into the oil I think that's pretty bad for the lubricating properties of the oil.”¹¹

119. A similar post was made on Reddit, where the original poster, Pele2048, posted a “Megathread” with over 100 comments about “coolant leakage/cylinder head damage” in the CX-9.¹² The original poster had posted 2 years prior about the Defect

¹⁰ <https://mazdas247.com/forum/t/2-5t-coolant-leak-engine-replacement.123875515/> (last visited April 10, 2024).

¹¹ <https://mazdas247.com/forum/t/2-5t-coolant-leak-engine-replacement.123875515/page-2> (last visited April 10, 2024).

¹² https://www.reddit.com/r/MazdaCX9/comments/zsq0vj/2nd_generation_20162023_cx9_owners_regarding/ (last visited April 10, 2024).

1 and the costs incurred to fix it.¹³ Various posters on the Megathread retold their
 2 experience, including one person that was experiencing the Defect, but “Mazda refused
 3 pre-authorization to dealership and I will have to pay out of pocket for engine
 4 replacement.” Another poster observed that Mazda “has an ‘lifetime powertrain
 5 warranty’ they won’t stand behind” and stated that “Mazda blew me off.” Yet another
 6 poster with a Mazda6 reported that “Mazda USA will only assist with \$2100 and the
 7 total cost is about \$7500.”

8 120. Yet another post on “Mazda Forum” relates to the Defect. User Killswitch
 9 posted in September 2022 that the engine in his 2017 CX-9 was overheating and
 10 diagnosed as needing an engine replacement because it was leaking coolant, and the
 11 poster was two months outside the Powertrain Limited Warranty.¹⁴ Later in the thread,
 12 the user posted pictures showing the coolant leaking throughout his engine:

13
14 ///

15
16 ///

17
18 ///

19
20 ///

21
22 ///

23
24
25 _____
13

26 [https://www.reddit.com/r/MazdaCX9/comments/qqc9is/feels_bad_man_2018_cx9_65k_miles_new](https://www.reddit.com/r/MazdaCX9/comments/qqc9is/feels_bad_man_2018_cx9_65k_miles_new_engine/)
 27 [engine/](https://www.reddit.com/r/MazdaCX9/comments/qqc9is/feels_bad_man_2018_cx9_65k_miles_new_engine/)? (last visited April 10, 2024).

28 ¹⁴ <https://www.mazdaforum.com/forum/mazda-cx-9-50/coolant-leak-engine-replacement-50386/>
 (last visited April 10, 2024).



121. One user on the Mazda Forum astutely observed that “I’m not sure what else we can do besides keep this forum going until we find something and we can all band together. I’m sure it’s a numbers thing with Mazda. The more people report this issue then they will have to do something about it.”¹⁵

///

¹⁵ *Id.*

4. Mazda's Internal Testing Should Have Identified the Engine Coolant Defect

122. Mazda is an experienced manufacturer of consumer vehicles. As experienced manufacturers, Defendants conduct tests, including pre-sale durability testing, to verify that the vehicles it sells are free from defects and align with Mazda's specifications and intended use of the Class, including routine highway travel.

123. Mazda touts the "extreme measures" that it puts its vehicles through during testing. These tests include wind tunnel testing, climate testing, safety testing, electromagnetic wave testing, and noise vibration and harshness testing.¹⁶

124. Particularly relevant here, Mazda's climate testing includes testing its vehicles at 130°F over a period of 30 days to test for "performance and emissions in the most extreme conditions."¹⁷ The vehicles are also driven up to speeds of 124 mph and left under heat lamps to examine their response to heat. Mazda's climate testing should have alerted it to the Engine Coolant Defect, which causes the Class Vehicles to lose engine coolant, overheat, and experience catastrophic engine failure.

125. Mazda also touts its "proactive safety" practices, which include providing "excellent visibility to the perfect driving position to the car's dynamic performance on the road, getting these basics right is essential to give you confidence and enjoyment behind the wheel."¹⁸ The Engine Coolant Defect, however, adversely impacts the performance of the Class Vehicles on the road, and leads to the safety issues described herein.

126. Thus, through a variety of quality control metrics, Mazda knew or should have known of the Engine Coolant Defect in the Class Vehicles prior to and shortly after the time of sale to Class members.

¹⁶ <https://insidemazda.mazdausa.com/the-mazda-way/cars-for-drivers/extreme-measure/> (last visited April 10, 2024).

¹⁷ *Id.*

¹⁸ <https://www.mazda.com/en/innovation/safety/> (last visited April 10, 2024).

127. If Mazda did not discover the Engine Coolant Defect, its research and testing were insufficient to support Mazda’s advertising, promoting, marketing, warranting, and selling of the Class Vehicles as suitable and safe for operation and use in the intended and reasonably foreseeable manner.

D. Mazda’s Response to Consumers Presenting the Engine Coolant Defect at Mazda Dealerships

128. The Mazda Class Vehicles come with a 5-year/60,000-mile Powertrain Limited Warranty.¹⁹

129. The Powertrain Warranty covers the engine, transmission and transaxle, and front/rear drive system.²⁰ The Powertrain Warranty also specifically covers the “Cylinder Block, Cylinder Head, and All Internal Lubricated Parts (Piston engines).”²¹ Accordingly, the Powertrain Warranty is the applicable warranty related to the Engine Coolant Defect.

130. Mazda instructs vehicle owners and lessees to bring their vehicles to a Mazda dealership for warranty repairs. Many owners and lessees have presented Class Vehicles to Mazda dealerships with complaints about the Engine Coolant Defect.

131. Despite Mazda’s knowledge of the problem—and presumed knowledge of how to appropriately remediate and prevent the Engine Coolant Defect from recurring—Mazda has not fixed the defect in vehicles under warranty. Instead, customers report two different actions at Mazda dealerships:

- a. advising customers that the Engine Coolant Defect is not covered under warranty and requiring customers to pay out of pocket for some or all of the repair;
- b. advising customers that a replacement engine, necessitated by the Engine Coolant Defect, is only partially covered under warranty and thereby requiring customers to pay out of pocket for some or all of the repair;

¹⁹ <https://www.mazdausa.com/owners/warranty> (last visited April 10, 2024).

²⁰ *Id.*

²¹ *Id.*

132. These customer experiences reflect service actions that are contrary, moreover, to the recommendations set forth in the Mazda Class Vehicle Owner's Manuals. For example, the Scheduled Maintenance for the 2019 Mazda CX-9 contains Schedule 1 and Schedule 2 tables for vehicle maintenance. At no point, within either maintenance schedule, does Mazda suggest that replacement of the vehicle's cylinder head or engine would be required as a result of the Engine Coolant Defect.

E. Defendants' Efforts to Conceal the Defect from Consumers and Deflect Responsibility for Engine Problems onto Consumers

133. As alleged above, Defendants have failed to disclose the Class Vehicles' excessive Engine Coolant problem to consumers before or at point-of-sale. Mazda has also refused to acknowledge the Defect to vehicle owners. Plaintiffs further allege that Mazda has affirmatively taken steps to conceal the defect.

CLASS ALLEGATIONS

134. Despite Defendants' knowledge of the Engine Coolant Defect, Mazda has failed to notify customers of the nature and extent of the problems with Class Vehicles or provide any adequate remedy. Mazda has continued to sell Class Vehicles with the Engine Coolant Defect through its authorized dealers throughout the United States. Thus, owners of the Class Vehicles face more significant maintenance efforts, higher maintenance and repair costs, and safety risks associated with this defect. Plaintiffs allege that they, and persons similarly situated, would not have purchased the Class Vehicles, or would have paid less for them, had they known about the Engine Coolant Defect.

135. Plaintiffs bring this action pursuant to Rules 23(a), 23(b)(2), and 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of themselves and the following proposed classes:

///

///

///

Nationwide Class:

All persons in the United States who purchased or leased a Class Vehicle.

State Sub-Classes:

All members of the Nationwide Class who are residents of the states of California, Connecticut, Maryland, or New Jersey.

136. Excluded from the Class and State Sub-Classes (“Classes”) are: Mazda, its employees, officers, directors, legal representatives, heirs, successors, wholly- or partly-owned, and its subsidiaries and affiliates; Mazda dealers; proposed Class counsel and their employees; the judicial officers and associated court staff assigned to this case and their immediate family members; all persons who make a timely election to be excluded from the Classes; governmental entities; and the judge to whom this case is assigned and his/her immediate family.

137. This action has been brought and may be properly maintained on behalf of the Classes proposed herein under Federal Rule of Civil Procedure 23.

138. Numerosity. Federal Rule of Civil Procedure 23(a)(1): the members of the Classes are so numerous and geographically dispersed that individual joinder of all Class members is impracticable. Class Vehicles may be identified during the pendency of this action and all owners and lessors notified by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice. The Class members may be easily derived from Mazda’s sales records.

139. Commonality and Predominance. Federal Rule of Civil Procedure 23(a)(2) and 23(b)(3): this action involves common questions of law and fact, which predominate over any questions affecting individual Class members, including, without limitation:

- a. Whether Defendants engaged in the conduct alleged herein;
- b. Whether Defendants designed, advertised, marketed, distributed, leased, sold, or otherwise placed the Class Vehicles into the stream of commerce in the United States;
- c. Whether the Engine Coolant Defect constitutes a safety defect;

- d. Whether Defendants knew about, and failed to disclose, the Engine Coolant Defect at the time Plaintiffs and the Class members purchased their Class Vehicles;
- e. Whether Defendants manufactured, marketed, and distributed the Class Vehicles knowing that the Engine Coolant Defect could and would occur;
- f. Whether Defendants' conduct violates consumer protection statutes, false advertising laws, sales contracts, warranty laws, and other laws as asserted herein;
- g. Whether Defendants owed a duty to warn Plaintiffs and Class Members about the Engine Coolant Defect;
- h. Whether Defendants and the other Class members overpaid for their Class Vehicles;
- i. Whether Defendants breached the warranty by failing to properly inspect and repair the Engine Coolant Defect;
- j. Whether Plaintiffs and the other Class members are entitled to equitable relief, including, but not limited to, restitution or injunctive relief; and
- k. Whether Plaintiffs and the other Class members are entitled to damages and other monetary relief and, if so, in what amount.

140. Typicality. Federal Rule of Civil Procedure 23(a)(3): Plaintiffs' claims are typical of the other Class members' claims because, among other things, all Class members were comparably injured through Mazda's wrongful conduct as described above.

141. Adequacy. Federal Rule of Civil Procedure 23(a)(4): Plaintiffs are adequate Class representatives because their interests do not conflict with the interests of the other members of the Classes they seek to represent; Plaintiffs have retained counsel competent and experienced in complex class action litigation; and Plaintiffs intend to prosecute this action vigorously. The interests of the Class will be fairly and adequately protected by Plaintiffs and their counsel.

142. Declaratory and Injunctive Relief. Federal Rule of Civil Procedure 23(b)(2): Mazda has acted or refused to act on grounds generally applicable to Plaintiffs and the other members of the Classes, thereby making appropriate final injunctive relief and declaratory relief with respect to the Classes as a whole.

143. Superiority. Federal Rule of Civil Procedure 23(b)(3): a class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiffs and the other Class members are relatively small compared to the burden and expense that would be required to individually litigate their claims against Mazda, so it would be impracticable for the members of the Classes to individually seek redress for Mazda's wrongful conduct. Even if Class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

CAUSES OF ACTION

COUNT 1

VIOLATIONS OF MAGNUSON-MOSS WARRANTY ACT

15 U.S.C. §§ 2301, ET SEQ.

(ON BEHALF OF THE NATIONWIDE CLASS OR ALTERNATIVELY EACH OF THE STATE SUB-CLASSES)

144. Plaintiffs incorporate by reference all allegations of the preceding paragraphs as though fully set forth herein.

145. The Magnuson-Moss Warranty Act ("MMWA") provides a private right of action by purchasers of consumer products against retailers who, *inter alia*, fail to comply with the terms of a written or implied warranty. 15 U.S.C. § 2310(d)(1). As alleged herein, Mazda has failed to comply with its express warranties and implied warranty of merchantability with regard to the Class Vehicles.

146. The Class Vehicles are "consumer product[s]", as that term is defined in 15 U.S.C. § 2301(1).

147. Plaintiffs and each member of the Classes defined above are "consumer[s]", as that term is defined in 15 U.S.C. § 2301(3).

1 148. Mazda is a “supplier” and “warrantor,” as those terms are defined in 15
2 U.S.C. § 2301(4)-(5).

3 149. The MMWA provides a cause of action for breach of a written or implied
4 warranty or other violations of the Act. 15 U.S.C. § 2310(d)(1).

5 150. Defendants’ warranties are “written warranties” within the meaning of 15
6 U.S.C. § 2301(6).

7 151. Mazda breached the express warranties by providing a 5-year/60,000 mile
8 Powertrain Warranty with the purchase or lease of all Class Vehicles, thereby
9 warranting to repair or replace any part defective in material or workmanship at no cost
10 to the owner or lessee; selling and leasing Class Vehicles with the Engine Coolant
11 Defect, and thus defective in materials and/or workmanship, requiring repair or
12 replacement within the warranty period; and refusing and/or failing to honor the express
13 warranties by effectively repairing or replacing the defective parts free of charge and
14 within a reasonable time.

15 152. Mazda also provided Plaintiffs and the other Class members with an
16 implied warranty of merchantability in connection with the purchase or lease of their
17 Class Vehicles that is an “implied warranty” within the meaning of the MMWA, 15
18 U.S.C. § 2301(7). As part of the implied warranty of merchantability, Mazda warranted
19 that the Class Vehicles were fit for their ordinary purpose as safe passenger motor
20 vehicles, would pass without objection in the trade as manufactured and marketed, and
21 were adequately contained, packaged, and labeled.

22 153. Mazda breached these implied warranties and is therefore liable to
23 Plaintiffs and the Class pursuant to 15 U.S.C. § 2310(d)(1). Without limitation, the Class
24 Vehicles share common defects in that they suffer from the Engine Coolant Defect and
25 can suddenly fail during normal use and operation. Mazda has admitted that the Class
26 Vehicles are defective through its TSBs.

27 154. Mazda was provided notice of the claims raised by Plaintiffs and was
28 afforded a reasonable opportunity to cure. Mazda failed to cure in that it has not offered

1 a no cost repair to Plaintiffs and consumers for the Engine Coolant Defect. Until
 2 Plaintiffs' representative capacity is determined, notice and opportunity to cure through
 3 Plaintiffs, and on behalf of the Class, can be provided under 15 U.S.C. § 2310(e).

4 155. Mazda's acts and omissions in violation of the MMWA are "[u]nfair
 5 methods of competition in or affecting commerce, and unfair or deceptive acts or
 6 practices in or affecting commerce," and they are unlawful. 15 U.S.C. §§ 2310(b),
 7 45(a)(1).

8 156. Plaintiffs and the members of the Class have suffered, and are entitled to
 9 recover, damages as a result of Mazda's breach of express and/or implied warranties
 10 and violations of the MMWA.

11 157. Plaintiffs also seek an award of costs and expenses, including attorneys'
 12 fees in connection with the commencement and prosecution of this action under 15
 13 U.S.C. § 2310(d)(2). Plaintiffs and the prospective Class intend to seek such an award,
 14 including expert witness costs and other recoverable costs, as prevailing consumers at
 15 the conclusion of this lawsuit.

16 **COUNT 2**
 17 **BREACH OF EXPRESS WARRANTY**
 18 **(ON BEHALF OF THE NATIONWIDE CLASS)**

19 158. Plaintiffs incorporate by reference all allegations of the preceding
 20 paragraphs as though fully set forth herein.

21 159. Mazda provided all purchasers and lessees of the Class Vehicles with the
 22 same express warranties described herein, which became part of the basis of the bargain.

23 160. The parts affected by the Engine Coolant Defect were distributed by Mazda
 24 in the Class Vehicles and are covered by the warranties Mazda provided to all
 25 purchasers and lessors of Class Vehicles.

26 161. Mazda breached these warranties by selling and leasing Class Vehicles
 27 with the Engine Coolant Defect, requiring repair or replacement within the applicable
 28 warranty periods, and refusing to honor the warranties by providing free repairs or
 replacements during the applicable warranty periods.

162. Plaintiffs notified Mazda of the breach within the warranty period. Mazda already knew of the Engine Coolant Defect and yet chose to conceal it and failed to comply with its warranty obligations.

163. As a direct and proximate cause of Mazda's breach, Plaintiffs and the members of the Class bought or leased Class Vehicles they otherwise would not have, overpaid for their vehicles, did not receive the benefit of their bargain, and their Class Vehicles suffered a diminution in value. Plaintiffs and the Class have also incurred and will continue to incur costs related to the diagnosis and repair of the Engine Coolant Defect.

164. Mazda's attempt to disclaim or limit these express warranties is unconscionable and unenforceable under the circumstances here.

165. Specifically, Mazda's warranty limitation is unenforceable because it knowingly sold a defective product without informing consumers about the defect.

166. The time limits contained in Mazda's warranty period were also unconscionable and inadequate to protect Plaintiffs and members of the Class. A gross disparity in bargaining power existed between Mazda and the Class Members, and Mazda knew or should have known that the Class Vehicles were defective at the time of sale and would fail well before their useful lives.

167. Plaintiffs and the Class have complied with all obligations under the warranty, or otherwise have been excused from performance of said obligations as a result of Mazda's conduct described herein.

COUNT 3
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
(ON BEHALF OF THE NATIONWIDE CLASS)

168. Plaintiffs incorporate by reference all allegations of the preceding paragraphs as though fully set forth herein.

169. Mazda manufactured and distributed Class Vehicles throughout the United States for sale and lease to Plaintiffs and the Class Members.

170. Mazda impliedly warranted to Plaintiffs and members of the Class that their Class Vehicles were free of defects and were merchantable and fit for their ordinary purpose for which such goods are used.

171. As alleged herein, Mazda breached the implied warranty of merchantability because the Class Vehicles suffer from the Engine Coolant Defect. The Class Vehicles are therefore defective, unmerchantable, and unfit for their ordinary, intended purpose.

172. After Plaintiffs experienced the Engine Coolant Defect and contacted the dealership on multiple occasions without relief, Plaintiffs gave reasonable and adequate notice to Mazda that the Class Vehicles were defective, unmerchantable, and unfit for their intended use or purpose.

173. Due to the Engine Coolant Defect, Plaintiffs and the members of the Class are unable to operate their vehicles as intended in a safe condition, substantially free from defects. The Class Vehicles do not provide safe and reliable transportation to Plaintiffs and the members of the Class. As a result, Plaintiffs and members of the Class are unable to rely upon and safely drive their Class Vehicles.

174. Plaintiffs did not receive or otherwise have the opportunity to review, at or before the time of sale or lease, the written warranty containing the purported exclusions and limitations of remedies. Accordingly, any such exclusions and limitations of remedies are unconscionable and unenforceable, and Plaintiffs are entitled to all remedies available under Article 2 of the Uniform Commercial Code and other state laws of each Sub-Class. Any purported warranty disclaimers, exclusions, and limitations were unconscionable and unenforceable. As a direct and proximate result of the breach of implied warranty of merchantability, Plaintiffs and members of the Classes have been injured in an amount to be proven at trial.

///

///

///

COUNT 4
UNJUST ENRICHMENT
(ON BEHALF OF THE NATIONWIDE CLASS OR ALTERNATIVELY EACH
OF THE STATE SUB-CLASSES)

175. Plaintiffs incorporate by reference all allegations of the preceding paragraphs as though fully set forth herein.

176. This claim is pled in the alternative to Plaintiffs' contract-based claims.

177. Mazda knew or should have known that Plaintiffs and the Class paid for the Class Vehicles with the expectation that they would perform as represented and were free from defects.

178. Plaintiffs and the Class conferred substantial benefits on Mazda by purchasing the defective Class Vehicles. Mazda knowingly and willingly accepted and enjoyed those benefits.

179. Mazda's retention of these benefits is inequitable.

180. As a direct and proximate cause of Mazda's unjust enrichment, Plaintiffs and the Class are entitled to an accounting, restitution, attorneys' fees, costs, and interest.

COUNT 5
NEGLIGENT MISREPRESENTATION
(ON BEHALF OF THE NATIONWIDE CLASS OR ALTERNATIVELY EACH
OF THE STATE SUB-CLASSES)

181. Plaintiffs incorporate by reference all allegations of the preceding paragraphs as though fully set forth herein.

182. Mazda had a duty to provide honest and accurate information to its customers so that customers could make informed decisions on the substantial purchase of automobiles.

183. Mazda specifically and expressly misrepresented material facts to Plaintiffs and Class members, as discussed above.

184. Mazda knew, or in the exercise of reasonable diligence, should have known, that the ordinary and reasonable consumer would be misled by Mazda's misleading and deceptive advertisements.

185. Plaintiffs and the Class members justifiably relied on Mazda's misrepresentations and have been damaged thereby in an amount to be determined at trial.

COUNT 6
FRAUDULENT CONCEALMENT
(ON BEHALF OF THE NATIONWIDE CLASS OR ALTERNATIVELY EACH
OF THE STATE SUB-CLASSES)

186. Plaintiffs incorporate by reference the allegations of all foregoing paragraphs as if they had been set forth in full herein.

187. At all relevant times, Mazda was engaged in the business of designing, manufacturing, distributing, and selling the Class Vehicles.

188. Mazda, acting through its representatives or agents, sold and/or leased the Class Vehicles throughout the United States.

189. Mazda willfully, falsely, and knowingly omitted various material facts regarding the quality and character of the Class Vehicles, including that they suffered from the Engine Coolant Defect.

190. Rather than inform consumers of the truth regarding the Engine Coolant Defect, Mazda concealed material information related to the Engine Coolant Defect.

191. Mazda's omissions were material because the Engine Coolant Defect has a substantial impact not simply on the convenience and cost of vehicle maintenance, but also on the reliability and safety of the Class Vehicles over time.

192. Mazda omitted this material information to drive up sales and maintain its market power, as consumers would not have purchased the Class Vehicles, or would have paid substantially less for them, had they known the truth.

193. Plaintiffs and the Class members had no way of knowing about the Engine Coolant Defect.

194. Plaintiffs and Class members could not have discovered the above information on their own, because Mazda was in the exclusive possession of such information.

195. Although Mazda has a duty to ensure the accuracy of information regarding the performance of its Class Vehicles, it did not fulfill these duties.

196. Plaintiffs and Class members sustained injury due to the purchase of Class Vehicles that suffered from the Engine Coolant Defect.

197. Mazda's acts were done maliciously, oppressively, deliberately, and with intent to defraud, and in reckless disregard of Plaintiffs and Class members' rights and well-being, and in part to enrich itself at the expense of consumers. Mazda's acts were done to gain commercial advantage over competitors, and to drive consumers away from consideration of competitor's vehicles. Mazda's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future.

COUNT 7
VIOLATIONS OF THE NEW JERSEY CONSUMER FRAUD ACT
(N.J. Stat. Ann. §§ 56:8-1, *et seq.*)
(By Plaintiff Jarvis on Behalf of the New Jersey Class)

198. Plaintiffs incorporate by reference all allegations of the preceding paragraphs as though fully set forth herein.

199. The New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8-1, *et seq.* ("NJCFA") protects consumers against "any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise" N.J. Stat. Ann. § 56:8-2.

200. Plaintiff Jarvis and the New Jersey Class Members are consumers who purchased or leased Class Vehicles.

201. In the course of Mazda's business, it knowingly concealed, suppressed, and omitted the fact that the Class Vehicles suffer from the Engine Coolant Defect, with the

1 intent that Plaintiff Jarvis and the New Jersey Class Members rely upon that
 2 concealment, suppression, and omission when making their purchasing decisions.

3 202. The existence of the Defect, which manifests in all or substantially all Class
 4 Vehicles, is material because the Engine Coolant Defect has a substantial impact not
 5 simply on the convenience and cost of vehicle maintenance, but also on the reliability
 6 and safety of the Class Vehicles over time.

7 203. Mazda has engaged in unfair and deceptive trade practices, including:

- 8 a. representing that the Class Vehicles have characteristics, uses, benefits,
 9 and qualities which they do not have;
- 10 b. representing that the Class Vehicles are of a particular standard and
 11 quality when they are not;
- 12 c. advertising the Class Vehicles with the intent to not sell them as
 13 advertised; and
- 14 d. otherwise engaging in conduct likely to deceive.

15 204. Mazda's actions as set forth above occurred in the conduct of trade or
 16 commerce.

17 205. Mazda's conduct caused Plaintiff Jarvis and the New Jersey Class
 18 Members to suffer an ascertainable loss. Plaintiff Jarvis and the other New Jersey Class
 19 Members purchased vehicles they otherwise would not have, overpaid for their vehicles,
 20 did not receive the benefit of their bargain, and their vehicles suffered a diminution in
 21 value. Plaintiff Jarvis and the New Jersey Class Members have also incurred and will
 22 continue to incur costs for necessary repairs to their vehicles as a result of the Defect.

23 206. Plaintiff Jarvis's and other New Jersey Class Members' damages are the
 24 direct and foreseeable result of Mazda's unlawful conduct. Had the Engine Coolant
 25 Defect in the Class Vehicles been disclosed, consumers would not have purchased or
 26 would have paid less for them and would have been spared the subsequent expenses
 27 described herein.

28 ///

207. Pursuant to N.J. Stat. Ann. § 56:8-20, the New Jersey Attorney General will be served with a copy of this Complaint.

COUNT 8
VIOLATIONS OF THE MARYLAND CONSUMER PROTECTION ACT
(Md. Code Comm. Law §13-301 *et seq*)
(By Plaintiff Bajwa on Behalf of the Maryland Class)

208. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

209. Plaintiff Bajwa brings this claim individually and on behalf of the Maryland Class against Defendants.

210. Mazda is a person as defined by Md. Comm. Code § 13-101(h).

211. Mazda's conduct as alleged herein related to "sales," "offers for sale," or "bailment" as defined by Md. Comm. Code § 13-101(i) and § 13-303.

212. Plaintiff Bajwa and Maryland Class members are "consumers" as defined by Md. Comm. Code § 13-101(c).

213. Defendants advertise, offer, or sell "consumer goods or "consumer services" as defined by Md. Comm. Code § 13-101(d).

214. Defendants advertised, offered, or sold goods or services in Maryland and engaged in trade or commerce directly or indirectly affecting the people of Maryland.

215. Defendants engaged in unfair and deceptive trade practices, in violation of Md. Comm. Code § 13-301, including:

- a. False or misleading oral or written representations that have the capacity, tendency, or effect of deceiving or misleading consumers;
- b. Representing that consumer goods or services have a characteristic that they do not have;
- c. Representing that consumer goods or services are of a particular standard, quality, or grade that they are not;
- d. Failing to state a material fact where the failure deceives or tends to deceive;

- e. Advertising or offering consumer goods or services without intent to sell, lease, or rent them as advertised or offer; and
- f. Deception, fraud, false pretense, false premise, misrepresentation, or knowing concealment, suppression, or omission of any material fact with the intent that a consumer rely on the same in connection with the promotion or sale of consumer goods or services of the subsequent performance with respect to an agreement, sale, lease, or rental.

216. Defendants engaged in these unfair and deceptive trade practices in connection with offering for sale or selling consumer goods or services or with respect to the extension of consumer credit, in violation of Md. Comm. Code § 13-303.

217. Defendants' representations and omissions were material because they were likely to deceive reasonable consumers.

218. Defendants intended to mislead Plaintiff Bajwa and the Maryland Class members and induce them to rely on their misrepresentations and omissions.

219. Defendants should have disclosed the Defect to Plaintiff Bajwa and the Maryland Class because they were in a superior position to know the true facts related to the Defect, and Plaintiff Bajwa and Class members could not reasonably be expected to learn or discover the true facts related to this Defect.

220. Defendants, by the conduct, statements, and omissions described above, also knowingly and intentionally concealed from Plaintiff Bajwa and the Maryland Class members that Class Vehicles suffer from the Defect (and the costs, safety risks, and diminished value of the Class Vehicles as a result of this problem).

221. These acts and practices have deceived Plaintiff Bajwa and are likely to deceive the public. Defendants, by the conduct, statements, and omissions described above, and by knowingly and intentionally concealing from Plaintiff Bajwa and the Maryland Class members that the Class Vehicles suffer from the Defect (and the costs, safety risks, and diminished value of the Class Vehicles as a result of this problem), breached their duties to disclose these facts, violated the MCPA, and caused injuries to

Plaintiff Bajwa and the Maryland Class members. The omissions and acts of concealment by Defendants pertained to information that was material to Plaintiff Bajwa and Class members, as it would have been to all reasonable consumers.

222. The injuries suffered by Plaintiff Bajwa and the Maryland Class members are greatly outweighed by any potential countervailing benefit to consumers or to competition, nor are they injuries that Plaintiff Bajwa and the Class members should have reasonably avoided.

223. Defendants' conduct proximately caused injuries to Plaintiff Bajwa and other Class members. Had Plaintiff Bajwa and the Class known about the defective nature of the Class Vehicles, they would not have purchased the Class Vehicles, would have paid less for them or would have avoided the extensive repair costs associated therewith.

224. Plaintiff Bajwa and the Maryland Class members seek all monetary and non-monetary relief allowed by law, including damages, disgorgement, injunctive relief, and attorneys' fees and costs.

COUNT 9
VIOLATIONS OF CALIFORNIA'S CONSUMER LEGAL REMEDIES ACT
("CLRA") (Cal. Civ. Code § 1750, *et seq.*)
(By Plaintiff Rockwell on Behalf of the California Class)

225. Plaintiff Rockwell and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

226. Plaintiff Rockwell brings this claim on behalf of himself and on behalf of the California Class against Defendants.

227. Defendants are persons as that term is defined in California Civil Code § 1761(c).

228. Plaintiff Rockwell and the California Class Members are "consumers" as that term is defined in California Civil Code § 1761(d).

229. Defendants engaged in unfair and deceptive acts in violation of the CLRA by the practices described above, and by knowingly and intentionally concealing from

1 Plaintiff Rockwell and California Class Members that the Class Vehicles suffer from
 2 the Defect (and the costs, risks, and diminished value of the vehicles as a result of this
 3 problem). These acts and practices violate, at a minimum, the following sections of the
 4 CLRA:

5 (a)(2) Misrepresenting the source, sponsorship, approval or
 6 certification of goods or services;

7 (a)(5) Representing that goods or services have sponsorships,
 8 characteristics, uses, benefits or quantities which they do not have,
 or that a person has a sponsorship, approval, status, affiliation or
 connection which he or she does not have;

9 (a)(7) Representing that goods or services are of a particular
 10 standard, quality, or grade, or that goods are of a particular style or
 model, if they are of another; and

11 (a)(9) Advertising goods and services with the intent not to sell them
 12 as advertised.

13 230. Defendants' unfair or deceptive acts or practices occurred repeatedly in
 14 Defendants' trade or business, were capable of deceiving a substantial portion of the
 15 purchasing public, and imposed a serious safety risk on the public.

16 231. Defendants knew that the Class Vehicles were defectively designed and/or
 17 manufactured, would fail prematurely, and were not suitable for their intended use.

18 232. Defendants were under a duty to Plaintiff Rockwell and the California
 19 Class Members to disclose the defective nature of the Class Vehicles because:

20 a. Defendants were in a superior position to know the true state of facts about
 21 the safety defect and associated repair costs in the Class Vehicles;

22 b. Plaintiff Rockwell and the California Class Members could not reasonably
 23 have been expected to learn or discover that the Class Vehicles had a dangerous safety
 24 defect until manifestation of the Defect;

25 c. Defendants knew that Plaintiff Rockwell and the California Class
 26 Members could not reasonably have been expected to learn or discover the safety and
 27 security defect and the associated repair costs that it causes until the manifestation of
 28 the Defect; and

d. Defendants actively concealed the safety and security defect and the associated repair costs by asserting to Plaintiff Rockwell and the California Class Members that their vehicles were not defective.

233. In failing to disclose the Defect and the associated safety risks and repair costs that result from it, Defendants have knowingly and intentionally concealed material facts and breached their duty to disclose.

234. The facts concealed or not disclosed by Defendants to Plaintiff Rockwell and the California Class Members are material in that a reasonable consumer would have considered them to be important in deciding whether to purchase Defendants' Class Vehicles or pay a lesser price. Had Plaintiff Rockwell and the California Class known about the defective nature of the Class Vehicles, they would not have purchased or leased the Class Vehicles or would have paid less for them.

235. On or about April 9, 2024 Plaintiff Rockwell provided Defendants with notice of their violations of the CLRA pursuant to California Civil Code § 1782(a) and seek both injunctive relief and monetary damages, including actual, restitutionary, and punitive damages.

236. Plaintiff Rockwell's and the other California Class Members' injuries were proximately caused by Defendants' fraudulent and deceptive business practices.

237. Therefore, Plaintiff Rockwell and the other California Class Members seek all relief available under the CLRA.

COUNT 10
VIOLATIONS OF THE CALIFORNIA UNFAIR COMPETITION LAW
(Cal. Bus. & Prof. Code § 17200)
(By Plaintiff Rockwell on Behalf of the California Class)

238. Plaintiff Rockwell and the California Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

239. Plaintiff Rockwell brings this claim on behalf of himself and on behalf of the California Class against Defendants.

240. The California Unfair Competition Law ("UCL") prohibits acts of "unfair

1 competition,” including any “unlawful, unfair or fraudulent business act or practice”
2 and “unfair, deceptive, untrue or misleading advertising.” Cal. Bus. & Prof. Code §
3 17200.

4 241. Defendants have engaged in unfair competition and unfair, unlawful or
5 fraudulent business practices by the conduct, statements, and omissions described
6 above, and by knowingly and intentionally concealing from Plaintiff Rockwell and the
7 California Class Members that the Class Vehicles suffer from the Defect (and the costs,
8 safety risks, and diminished value of the vehicles as a result of these problems).
9 Defendants should have disclosed this information because they were in a superior
10 position to know the true facts related to the Defect, and Plaintiff Rockwell and
11 California Class Members could not reasonably be expected to learn or discover the true
12 facts related to the Defect.

13 242. The Engine Coolant Defect constitute a safety issue that triggered
14 Defendants’ duty to disclose the safety issue to consumers.

15 243. These acts and practices have deceived Plaintiff Rockwell and are likely to
16 deceive the public. In failing to disclose the Defect and suppressing other material facts
17 from Plaintiff Rockwell and California Class Members, Defendants breached their
18 duties to disclose these facts, violated the UCL, and caused injuries to Plaintiff Rockwell
19 and California Class Members. The omissions and acts of concealment by Defendants
20 pertained to information that was material to Plaintiff Rockwell and California Class
21 Members, as it would have been to all reasonable consumers.

22 244. The injuries suffered by Plaintiff Rockwell and California Class Members
23 are not greatly outweighed by any potential countervailing benefit to consumers or to
24 competition, nor are they injuries that Plaintiff Rockwell and California Class Members
25 should have reasonably avoided.

26 245. Defendants’ acts and practices are unlawful because they violate California
27 Civil Code §§ 1668, 1709, 1710, and 1750 *et seq.*, and California Commercial Code §
28 2313.

246. Plaintiff Rockwell seeks to enjoin further unlawful, unfair and/or fraudulent acts or practices by Defendants, to obtain restitutionary disgorgement of all monies and revenues generated as a result of such practices, and all other relief allowed under California Business & Professions Code § 17200.

COUNT 11
VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW
(Cal. Bus. & Prof. Code § 17500, et seq.)
(By Plaintiff Rockwell on Behalf of the California Class)

247. Plaintiff Rockwell and the California Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

248. Plaintiff Rockwell brings this claim on behalf of himself and on behalf of the California Class against Defendants.

249. California Business & Professions Code § 17500 states: “It is unlawful for any . . . corporation . . . with intent directly or indirectly to dispose of real or personal property . . . to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated . . . from this state before the public in any state, in any newspaper or other publication, or any advertising device, . . . or in any other manner or means whatever, including over the Internet, any statement . . . which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.”

250. Defendants caused to be made or disseminated through California and the United States, through advertising, marketing and other publications, statements that were untrue or misleading, and which were known, or which by the exercise of reasonable care should have been known to Defendants, to be untrue and misleading to consumers, including Plaintiff Rockwell and the other California Class Members.

251. Defendants have violated section 17500 because the misrepresentations and omissions regarding the safety, reliability, and functionality of their Class Vehicles as set forth in this Complaint were material and likely to deceive a reasonable consumer.

252. Plaintiff Rockwell and the other California Class Members have suffered

an injury in fact, including the loss of money or property, as a result of Defendants' unfair, unlawful, and/or deceptive practices. In purchasing or leasing their Class Vehicles, Plaintiff Rockwell and the other California Class Members relied on the misrepresentations and/or omissions of Defendants with respect to the safety and reliability of the Class Vehicles. Defendants' representations were untrue because the Class Vehicles are distributed with the Engine Coolant Defect that can cause catastrophic engine failure. Had Plaintiff Rockwell and the other California Class Members known this, they would not have purchased or leased their Class Vehicles and/or paid as much for them. Accordingly, Plaintiff Rockwell and the other California Class Members overpaid for their Class Vehicles and did not receive the benefit of their bargain.

253. All of the wrongful conduct alleged herein occurred, and continues to occur, in the conduct of Defendants' businesses. Defendants' wrongful conduct is part of a pattern or generalized course of conduct that is still perpetuated and repeated, both in the state of California and nationwide.

254. Plaintiff Rockwell, individually and on behalf of the other California Class Members, requests that this Court enter such orders or judgments as may be necessary to enjoin Defendants from continuing their unfair, unlawful, and/or deceptive practices and to restore to Plaintiff Rockwell and the other California Class Members any money Defendants acquired by unfair competition, including restitution and/or restitutionary disgorgement, and for such other relief set forth below.

COUNT 12
VIOLATION OF SONG-BEVERLY CONSUMER WARRANTY ACT -
BREACH OF IMPLIED WARRANTY
(Cal. Civ. Code §§ 1791.2 & 1792)
(By Plaintiff Rockwell on Behalf of the California Class)

255. Plaintiff Rockwell and the California Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

256. Plaintiff Rockwell brings this claim on behalf of himself and on behalf of the California Class against Defendants.

1 257. Plaintiff Rockwell and the other California Class members who purchased
2 or leased the Class Vehicles in California are “buyers” within the meaning of Cal. Civ.
3 Code § 1791(b).

4 258. The Class Vehicles are “consumer goods” within the meaning of Cal. Civ.
5 Code § 1791(a).

6 259. Defendants are “manufacturers” of the Class Vehicles within the meaning
7 of Cal. Civ. Code § 1791(j).

8 260. Defendants impliedly warranted to Plaintiff Rockwell and the other
9 California Class Members that the Class Vehicles were “merchantable” within the
10 meaning of Cal. Civ. Code §§ 1791.1 & 1792.

11 261. However, the Class Vehicles do not have the quality that a reasonable
12 purchaser would expect.

13 262. Cal. Civ. Code § 1791.1(a) states: “Implied warranty of merchantability”
14 or “implied warranty that goods are merchantable” means that the consumer goods meet
15 each of the following: (1) pass without objection in the trade under the contract
16 description; (2) are fit for the ordinary purposes for which such goods are used; and (4)
17 conform to the promises or affirmations of fact made on the container or label.

18 263. The Class Vehicles would not pass without objection in the trade because
19 of the Defect.

20 264. The Class Vehicles are not fit for the ordinary purpose for which they are
21 used because of the Defect.

22 265. The Class Vehicles do not conform to the promises or affirmations of fact
23 made by Defendants.

24 266. Defendants breached the implied warranty of merchantability by
25 manufacturing and selling Class Vehicles containing the Defect. The existence of the
26 Defect has caused Plaintiff Rockwell and the other California Class members to not
27 receive the benefit of their bargain and have caused Class Vehicles to depreciate in
28 value.

267. As a direct and proximate result of Defendants' breach of the implied warranty of merchantability, Plaintiff Rockwell and the other California Class members received goods whose defective condition substantially impairs their value to Plaintiff Rockwell and the other California members. Plaintiff Rockwell and the other California Class members have been damaged as a result of the diminished value of the Class Vehicles.

268. Plaintiff Rockwell and the other California Class members are entitled to damages and other legal and equitable relief including, at their election, the purchase price of their Class Vehicles, or the overpayment or diminution in value of their Class Vehicles.

269. Pursuant to Cal. Civ. Code § 1794, Plaintiff Rockwell and the other California Class members are entitled to costs and attorneys' fees.

COUNT 13
VIOLATION OF THE CONNECTICUT UNFAIR TRADE PRACTICE ACT
Conn. Gen. Stat. §§ 42-110a, et seq.
(By Plaintiff Belanger on Behalf of the Connecticut Class)

270. Plaintiff Belanger and the Connecticut Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

271. Plaintiff Belanger brings this claim on behalf of himself and on behalf of the Florida Class against Defendants.

272. The Connecticut Unfair Trade Practices Act ("CUTPA") prohibits "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." Conn. Gen. Stat. § 42-110b. Defendants engaged in unfair and deceptive practices that violated the CUTPA as described above.

273. Defendants engaged in "trade or commerce" in Connecticut within the meaning of the CUTPA. *See* Conn. Gen. Stat. § 42-110a(4).

274. Defendants caused to be made or disseminated through Connecticut and the United States, through advertising, marketing and other publications, statements that were untrue or misleading, and which were known, or which by the exercise of

1 reasonable care should have been known to Defendants, to be untrue and misleading to
2 consumers, including Plaintiff Belanger and the other Connecticut Class Members and
3 otherwise engaged in activities with a tendency or capacity to deceive.

4 275. In violation of the CUTPA, Defendants employed unfair and deceptive acts
5 or practices, fraud, false pretense, misrepresentation, or concealment, suppression or
6 omission of a material fact with intent that others rely upon such concealment,
7 suppression or omission, in connection with the sale and/or lease of Class Vehicles.
8 Defendants knowingly concealed, suppressed and omitted materials facts regarding the
9 Defect and misrepresented the standard, quality, or grade of the Class Vehicles, which
10 directly caused harm to Plaintiff Belanger and the Connecticut Class.

11 276. Defendants actively suppressed the fact that that Class Vehicles contain the
12 Defect and present a safety hazard because of materials, workmanship, design, and/or
13 manufacturing defects. Further, Defendants employed unfair and deceptive trade
14 practices by failing to provide repairs of the Defect or replacement of Class Vehicles
15 due to the Defect within a reasonable time in violation of the CUTPA. Defendants also
16 breached its warranties as alleged above in violation of the CUTPA.

17 277. As alleged above, Defendants have known of the Defect contained in the
18 Class Vehicles for years. Prior to selling and leasing the Class Vehicles, Defendants
19 knew or should have known the Class Vehicles contained the Defect due to pre-
20 production testing, quality control audits, and failure mode analysis. Defendants also
21 should have known of the Defect from the early complaints and service requests it
22 received from Class Members and dealers, from their own investigation and issuance of
23 service bulletins, technical tips and recalls, from repairs and/or replacements of the
24 engine coolant line and related parts, and from other internal sources. Defendants,
25 nevertheless, failed to disclose and actively concealed the dangers and risks posed by
26 the Class Vehicles and the Defect.

27 278. Defendants' unfair and deceptive trade practices were likely intended to
28 deceive a reasonable consumer. Plaintiff Belanger and members of the Connecticut

Class had no reasonable way to know that the Class Vehicles contained the Defect, were defective in design, workmanship and/or manufacture and posed a serious and significant safety risk. Defendants possessed superior knowledge as to the quality and characteristics of the Class Vehicles, including the Defect within their vehicles and its associated safety risks, and any reasonable consumer would have relied on Defendants' misrepresentations and omissions, as Plaintiff Belanger and members of the Connecticut Class did.

279. Defendants intentionally and knowingly misrepresented material facts and omitted material facts regarding the Class Vehicles and the Defect present in Class Vehicles with an intent to mislead Plaintiff Belanger and the Connecticut Class.

280. Defendants knew or should have known that their conduct violated the CUTPA.

281. Defendants owed Plaintiff Belanger and the Connecticut Class a duty to disclose the true safety and reliability of the Class Vehicles and the existence of the Defect because Defendants:

- (a) Possessed exclusive knowledge of the Defect;
- (b) Intentionally concealed the foregoing from Plaintiff Belanger and the Connecticut Class; and/or
- (c) Made incomplete representations about the safety and reliability of the foregoing generally, while purposefully withholding material facts from Plaintiff Belanger and the Connecticut Class that contradicted these representations, *inter alia*, that a Defect existed at the time of sale or lease.

282. Plaintiff Belanger and the other Connecticut Class Members have suffered an injury in fact, including the loss of money or property, as a result of Defendants' unfair, unlawful, and/or deceptive practices. In purchasing or leasing their Class Vehicles, Plaintiff Belanger and the other Connecticut Class Members relied on the misrepresentations and/or omissions of Defendants with respect to the safety and

1 reliability of the Class Vehicles. Defendants' representations were untrue because the
 2 Class Vehicles are distributed with the Engine Coolant Defect that can cause
 3 catastrophic engine failure. Had Plaintiff Belanger and the other Connecticut Class
 4 Members known this, they would not have purchased or leased their Class Vehicles
 5 and/or paid as much for them. Accordingly, Plaintiff Belanger and the other Connecticut
 6 Class Members overpaid for their Class Vehicles and did not receive the benefit of their
 7 bargain.

8 283. All of the wrongful conduct alleged herein occurred, and continues to
 9 occur, in the conduct of Defendants' businesses. Defendants' wrongful conduct is part
 10 of a pattern or generalized course of conduct that is still perpetuated and repeated, both
 11 in the state of Connecticut and nationwide.

12 284. Plaintiff Belanger, individually and on behalf of the other Connecticut
 13 Class Members, request that this Court enter such orders or judgments as may be
 14 necessary to enjoin Defendants from continuing their unfair, unlawful, and/or deceptive
 15 practices and to provide declaratory relief, attorneys' fees, and any other just and proper
 16 relief available under the CUTPA.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs, individually and on behalf of members of the Classes
 19 defined above, respectfully request that the Court enter judgment against Mazda and
 20 award the following relief:

21 A. Certification of this action as a class action pursuant to Rule 23 of the
 22 Federal Rules of Civil Procedure, declaring Plaintiffs as the representatives of the
 23 Classes, and Plaintiffs' counsel as counsel for the Classes;

24 B. An order enjoining Mazda from continuing the unlawful, deceptive,
 25 fraudulent, and unfair business practices alleged in this Complaint, including, without
 26 limitation, an order that requires Mazda to:

- 27 i. repair, recall, and/or replace the Class Vehicles,
- 28 ii. to extend the applicable warranties to a reasonable period of time
and to so notify the Classes,

- iii. to stop selling Class Vehicles with the misleading information and omissions and Engine Coolant Defect, and
- iv. at a minimum, to provide Plaintiffs and Class members with appropriate curative notice regarding the existence and cause of the Engine Coolant Defect;

C. An order granting declaratory relief, including without limitation, a declaration:

- i. requiring Mazda to comply with the various provisions of law cited above and to make all required disclosures;
- ii. stating that Mazda is financially responsible for all Class notice and the administration of Class relief;

D. An award of appropriate damages to repair or replace the Class Vehicles, including damages for economic loss including loss of the benefit of the bargain, overpayment damages, diminished value and out-of-pocket losses;

E. An order requiring disgorgement, for the benefit of the Class, the ill-gotten profits Mazda received from the sale or lease of the Class Vehicles, or full restitution to Plaintiffs and members of the Classes;

F. An order awarding any applicable statutory damages, civil penalties, and punitive and exemplary damages;

G. An award of costs, expenses, and attorneys' fees;

H. An order requiring Mazda to pay both pre- and post-judgment interest on any amounts awarded; and

I. Such other or further relief as the Court may deem just and proper.

Dated: April 10, 2024

NYE, STIRLING, HALE, MILLER & SWEET, LLP

By: /s/ Alison M. Bernal

Alison M. Bernal, Esq. (SBN 264629)
 alison@nshmlaw.com
 33 West Mission Street, Suite 201
 Santa Barbara, CA 93101
 Telephone: (805) 963-2345
 Facsimile: (805) 284-9590

NYE, STIRLING, HALE, MILLER & SWEET
33 WEST MISSION STREET, SUITE 201
SANTA BARBARA, CALIFORNIA 93101

Matthew D. Schelkopf (*pro hac vice* forthcoming)
mds@sstriallawyers.com
Joseph B. Kenney (*pro hac vice* forthcoming)
jbk@sstriallawyers.com
Juliette T. Mogenson (*pro hac vice* forthcoming)
jtm@sstriallawyers.com
SAUDER SCHELKOPF
1109 Lancaster Avenue
Berwyn, PA 19312
Telephone: (610) 200-0580
Facsimile: (610) 421-1326

Attorneys for Plaintiffs and the Proposed Classes

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial for all claims so triable.

Dated: April 10, 2024

NYE, STIRLING, HALE, MILLER & SWEET, LLP

By: /s/ Alison M. Bernal

Alison M. Bernal, Esq. (SBN 264629)
alison@nshmlaw.com
33 West Mission Street, Suite 201
Santa Barbara, CA 93101
Telephone: (805) 963-2345
Facsimile: (805) 284-9590

Matthew D. Schelkopf (*pro hac vice* forthcoming)
mds@sstriallawyers.com
Joseph B. Kenney (*pro hac vice* forthcoming)
jbk@sstriallawyers.com
Juliette T. Mogenson (*pro hac vice* forthcoming)
jtm@sstriallawyers.com
SAUDER SCHELKOPF
1109 Lancaster Avenue
Berwyn, PA 19312
Telephone: (610) 200-0580
Facsimile: (610) 421-1326

Attorneys for Plaintiffs and the Proposed Classes